

OFFICIAL CODE OF GEORGIA ANNOTATED

2013 Supplement

Including Acts of the the
2013 Session of the General Assembly

Prepared by
The Code Revision Commission
The Office of Legislative Counsel
and
The Editorial Staff of LexisNexis®



Published Under Authority of the State of Georgia

Volume 13 2012 Edition

Title 15. Courts

Including Notes to the Georgia Reports and the
Georgia Appeals Reports

**Place this Supplement Alongside the Corresponding
Volume of Main Set**

LexisNexis®
Charlottesville, Virginia

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THIS SUPPLEMENT CONTAINS

Statutes:

All laws specifically codified by the General Assembly of the State of Georgia through the 2013 Regular Session of the General Assembly.

Annotations of Judicial Decisions:

Case annotations reflecting decisions posted to LexisNexis® through March 29, 2013. These annotations will appear in the following traditional reporter sources: Georgia Reports; Georgia Appeals Reports; Southeastern Reporter; Supreme Court Reporter; Federal Reporter; Federal Supplement; Federal Rules Decisions; Lawyers' Edition; United States Reports; and Bankruptcy Reporter.

Annotations of Attorney General Opinions:

Constructions of the Official Code of Georgia Annotated, prior Codes of Georgia, Georgia Laws, the Constitution of Georgia, and the Constitution of the United States by the Attorney General of the State of Georgia posted to LexisNexis® through March 29, 2013.

Other Annotations:

References to:

Emory Bankruptcy Developments Journal.
Emory International Law Review.
Emory Law Journal.
Georgia Journal of International and Comparative Law.
Georgia Law Review.
Georgia State University Law Review.
Mercer Law Review.
Georgia State Bar Journal.
Georgia Journal of Intellectual Property Law.
American Jurisprudence, Second Edition.
American Jurisprudence, Pleading and Practice.
American Jurisprudence, Proof of Facts.
American Jurisprudence, Trials.
Corpus Juris Secundum.
Uniform Laws Annotated.
American Law Reports, First through Sixth Series.
American Law Reports, Federal.

Tables:

In Volume 41, a Table Eleven-A comparing provisions of the 1976 Constitution of Georgia to the 1983 Constitution of Georgia and a Table Eleven-B comparing provisions of the 1983 Constitution of Georgia to the 1976 Constitution of Georgia.

An updated version of Table Fifteen which reflects legislation through the 2013 Regular Session of the General Assembly.

Indices:

A cumulative replacement index to laws codified in the 2013 supplement pamphlets and in the bound volumes of the Code.

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TITLE 15

COURTS

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- 6. Superior Courts, 15-6-1 through 15-6-100.
- 7. State Courts of Counties, 15-7-1 through 15-7-85.
- 9. Probate Courts, 15-9-1 through 15-9-141.
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CHAPTER 1

GENERAL PROVISIONS

15-1-3. Powers of courts generally.

JUDICIAL DECISIONS

ANALYSIS

GENERAL CONSIDERATION

COMPELLING OBEDIENCE TO JUDGMENTS, ORDERS, AND PROCESS

General Consideration

Cited in *McAlister v. Abam-Samson*, 318 Ga. App. 1, 733 S.E.2d 58 (2012).

Compelling Obedience to Judgments, Orders, and Process

Authority to strike wife's pleadings in divorce for nonappearance. — It

was not an abuse of discretion for a trial court to strike a wife's pleadings in a divorce after the wife failed to appear at a final custody hearing because: (1) O.C.G.A. § 15-1-3 gave the trial court such authority for the wife's wilful refusal to participate; (2) the wife was warned to check for notices of upcoming hearing dates; and (3) despite proper notice, the

wife chose not to participate or state why. *Pennington v. Pennington*, 291 Ga. 165, 728 S.E.2d 230 (2012).

15-1-8. When judge or judicial officer disqualified.

JUDICIAL DECISIONS

ANALYSIS

PREVIOUS JUDICIAL CONTACT

RECUSAL

Previous Judicial Contact

No error in overruling motion to disqualify. — Court properly denied defendant's motion for an out-of-time appeal based on the defendant's contention that, four days before the defendant entered the defendant's guilty plea in 2000, the trial judge erroneously denied the defendant's motion to recuse the trial judge because the fact that the trial judge in the judge's previous capacity as district attorney prosecuted the defendant on another charge not currently pending before the judge was not, alone, a ground for disqualification and the trial judge ensured that the judge's name was redacted as district attorney from the previous indictment. *Leverette v. State*, 291 Ga. 834, 732 S.E.2d 255 (2012).

Recusal

Judge did not err in failing to recuse oneself.

Trial judge did not err by failing to recuse himself because the defendant did not move for a recusal and there was no duty for a trial judge to sua sponte recuse himself absent a violation of a specific standard of O.C.G.A. § 15-1-8 or Ga. Code Jud. Conduct Canon 3. *Fitzpatrick v. State*, 317 Ga. App. 873, 733 S.E.2d 46 (2012).

Judge should have assigned motion to recuse to another judge. — Trial judge erred in not assigning a motion to recuse to another judge as a reasonable question about the judge's impartiality was raised by affidavits stating that: 1) the judge's nephew had represented a party in the dispute that led to the law-

suit; 2) a partner from the nephew's law firm represented that party in the litigation; and 3) the partner talked to the trial judge about the case. *Mayor & Aldermen of Savannah v. Batson-Cook Co.*, 291 Ga. 114, 728 S.E.2d 189 (2012).

Motion to recuse improperly denied. — Decisions to deny a motion to recuse because the motion and affidavit did not meet the requirements of Ga. Unif. Super. Ct. R. 25.3 are reviewed de novo. Therefore, the following appellate decisions that employed the abuse of discretion standard were overruled: *Moore v. State*, 722 S.E.2d 160 (2012); *Grant v. State*, 695 S.E.2d 420 (2010); *Ga. Kidney & Hypertension Spec. v. FreseniuUSA Marketing*, 662 S.E.2d 245 (2008); *Adams v. State*, 659 S.E.2d 711 (2008); *Keller v. State*, 648 S.E.2d 714 (2007); *Hill v. Clayton County Bd. of Commrs.*, 640 S.E.2d 38 (2006); and *In re J.E.T.*, 604 S.E.2d 623 (2004). *Mayor & Aldermen of Savannah v. Batson-Cook Co.*, 291 Ga. 114, 728 S.E.2d 189 (2012).

Trial court erred in not assigning the case to another judge to rule on the defendant's motion to recuse pursuant to Ga. Unif. Super. Ct. R. 25.3 because the motion to recuse was legally sufficient; the affidavit the defendant filed with the motion met the criteria of Ga. Unif. Super. Ct. R. 25.2 because the affidavit contained definite and specific foundational facts of the trial judge's extra-judicial conduct demonstrating a purported lack of impartiality and was not stated in conclusory fashion or as a matter of opinion. *Braddy v. State*, 316 Ga. App. 292, 729 S.E.2d 461 (2012).

15-1-9.1. Requesting judicial assistance from other courts.

Cross references. — Request for judicial assignment, Ga. Unif. Sup. Ct. R. 44.2.

15-1-15. Drug court divisions.

Law reviews. — For article on the 2012 amendment of this Code section, see 29 Ga. St. U.L. Rev. 290 (2012).

15-1-16. Mental health court divisions.

Law reviews. — For article on the 2012 amendment of this Code section, see 29 Ga. St. U.L. Rev. 290 (2012).

CHAPTER 6

SUPERIOR COURTS

Article 1		Article 2	
General Provisions		Clerks of Superior Courts	
Sec.		Sec.	
15-6-2.	Number of judges.	15-6-62.1.	Back-up records; submission.
15-6-3.	(For effective date, see note.)	15-6-95.	Priorities of distribution of fines, forfeitures, surcharges, additional fees, and costs in cases of partial payments into the court.
15-6-8.	Jurisdiction and powers of superior courts.		

ARTICLE 1

GENERAL PROVISIONS

15-6-1. Composition of judicial circuits.

JUDICIAL DECISIONS

Cited in *Luangkhot v. State*, 292 Ga. 423, 736 S.E.2d 397 (2013).

15-6-2. Number of judges.

The number of judges for each of the superior courts for each of the judicial circuits shall be as follows:

- (1) Alapaha Circuit
- 2

(2) Alcovy Circuit 5

(2.1) Appalachian Circuit 3

(3) Atlanta Circuit 20

(4) Atlantic Circuit 4

(5) Augusta Circuit 8

(5.1) Bell-Forsyth Circuit 3

(6) Blue Ridge Circuit 3

(7) Brunswick Circuit 5

(8) Chattahoochee Circuit 7

(9) Cherokee Circuit 4

(10) Clayton Circuit 4

(11) Cobb Circuit 10

(12) Conasauga Circuit 4

(13) Cordele Circuit 3

(14) Coweta Circuit 6

(15) Dougherty Circuit 3

(15.1) Douglas Circuit 3

(16) Dublin Circuit 3

(17) Eastern Circuit 6

(17.1) Enotah Circuit 3

(18) Flint Circuit 3

(19) Griffin Circuit 4

(20) Gwinnett Circuit 10

(21) Houston Circuit 3

(22) Lookout Mountain Circuit 4

(23) Macon Circuit 5

(24) Middle Circuit 2

(25) Mountain Circuit 2

(26) Northeastern Circuit 4

(27) Northern Circuit 3

(28) Ocmulgee Circuit 5

(29) Oconee Circuit 3

(30) Ogeechee Circuit 3

(31) Pataula Circuit 2

(31.1) Paulding Circuit 3

(32) Piedmont Circuit 4

(32.1) Rockdale Circuit 2

(33) Rome Circuit 4

(34) South Georgia Circuit 2

(35) Southern Circuit 5

(36) Southwestern Circuit 3

(37) Stone Mountain Circuit 10

(38) Tallapoosa Circuit 2

(39) Tifton Circuit 2

(40) Toombs Circuit 2

(40.1) Towaliga Circuit 2

(41) Waycross Circuit 3

(42) Western Circuit 3

(Ga. L. 1982, p. 3, § 15; Ga. L. 1982, p. 428, §§ 1, 5; Ga. L. 1982, p. 434, § 1; Ga. L. 1982, p. 436, § 1; Ga. L. 1982, p. 439, §§ 1, 4; Ga. L. 1982, p. 501, §§ 1, 2; Ga. L. 1983, p. 761, § 3; Ga. L. 1984, p. 22, § 15; Ga. L. 1984, p. 434, § 1; Ga. L. 1984, p. 451, § 5; Ga. L. 1984, p. 469, § 1; Ga. L. 1984, p. 472, § 1; Ga. L. 1986, p. 160, § 1; Ga. L. 1986, p. 163, § 1; Ga. L. 1986, p. 417, § 1; Ga. L. 1986, p. 423, § 4; Ga. L. 1987, p. 279, § 9; Ga. L. 1987, p. 331, § 1; Ga. L. 1987, p. 410, § 1; Ga. L. 1987, p. 1145, § 1; Ga. L. 1988, p. 223, § 1; Ga. L. 1988, p. 234, § 1; Ga. L. 1989, p. 180, § 1; Ga. L. 1989, p. 188, § 1; Ga. L. 1989, p. 196, § 1; Ga. L. 1989, p. 200, § 1; Ga. L. 1989, p. 203, § 1; Ga. L. 1989, p. 205, § 1; Ga. L. 1990, p. 471, § 1; Ga. L. 1990, p. 474, § 1; Ga. L. 1990, p. 489, § 1; Ga. L. 1990, p. 497, § 2; Ga. L. 1991, p. 276, § 1; Ga. L. 1991, p. 278, § 1; Ga. L. 1991, p. 280, §§ 1, 12; Ga. L. 1991, p. 288, § 1; Ga. L. 1992, p. 328, § 1; Ga. L. 1992, p. 1668, § 1; Ga. L. 1992, p. 1786, § 3; Ga. L. 1992, p. 2067, § 1; Ga. L. 1992, p. 2776, §§ 1, 12; Ga. L. 1995, p. 1077, § 1; Ga. L. 1998, p. 220, §§ 2, 3; Ga. L. 1999, p. 40, § 1; Ga. L. 1999, p. 49, § 1; Ga. L. 1999, p. 67, §§ 13, 14; Ga. L. 2000, p. 205, § 1; Ga. L. 2001, p. 1060, §§ 1, 2; Ga. L. 2002, p. 405, §§ 3-2, 3-3; Ga. L. 2002, p. 851, § 1; Ga. L. 2005, p. 964, § 1-1/HB 97; Ga. L. 2006, p. 1024, § 1-1/HB 1073; Ga. L. 2007, p. 695, § 1-1/HB 118; Ga. L. 2008, p. 491,

§ 1-1/HB 1163; Ga. L. 2012, p. 166, § 1-1/SB 356; Ga. L. 2013, p. 570, §§ 1-1, 2-1/HB 451.)

The 2013 amendment, effective May 6, 2013, for purposes of making the initial appointments of the judges to fill the superior court judgeships created by this Act, and effective July 1, 2013, for all other purposes, substituted “7” for “6” in paragraph (8) and substituted “3” for “2” in paragraph (29).

Editor’s notes. — Ga. L. 2000, p. 205, §§ 11-17, as amended by Ga. L. 2013, p. 570, § 4-1/HB 451, and by Ga. L. 2013, p. 896, § 1/HB 506, not codified by the General Assembly, provided for the appointment of an additional judge to the Chattahoochee Judicial Circuit as authorized by paragraph (8) and provided for

terms, election of successors, powers, duties, dignity, jurisdiction, privileges, immunities, and other similar matters.

Ga. L. 2013, p. 570, §§ 1-2 through 1-4/HB 451, not codified by the General Assembly, provided for the appointment of an additional judge to the Chattahoochee Judicial Circuit, thereby increasing to seven the number of judges of said circuit.

Ga. L. 2013, p. 570, §§ 2-2 through 2-4/HB 451, not codified by the General Assembly, provided for the appointment of an additional judge to the Oconee Judicial Circuit, thereby increasing to three the number of judges of said circuit.

15-6-3. (For effective date, see note.) Terms of court.

The terms of court for the superior courts for each of the judicial circuits shall commence as follows:

(1) **Alapaha Circuit:**

- (A) Atkinson County — First Monday in April and October.
- (B) Berrien County — First Monday in February and August.
- (C) Clinch County — Third Monday in March and September.
- (D) Cook County — Second Monday in January and July.
- (E) Lanier County — Fourth Monday in April and October;

provided, however, that if any term of court in the Alapaha Circuit begins on an official state holiday, the term of court shall commence on the following Tuesday; and if any other day within the term of court shall be an official state holiday, the court shall be closed for that holiday.

(2) **Alcovy Circuit:**

- (A) Newton County — Second and third Mondays in January, April, July, and October.
- (B) Walton County — First and second Mondays in February, May, August, and November.

(2.1) **Appalachian Circuit:**

- (A) Fannin County — Second Monday in May and second Monday in November.

(B) Gilmer County — Second Monday in April and second Monday in October.

(C) Pickens County — Second Monday in March and second Monday in September.

(3) Atlanta Circuit:

Fulton County — First Monday in January, March, May, July, September, and November.

(4) Atlantic Circuit:

(A) Bryan County — Third Monday in March and first Monday in November.

(B) Evans County — First Monday in February and first Monday in August.

(C) Liberty County — Second Monday in February and September.

(D) Long County — First Monday in March and third Monday in August.

(E) McIntosh County — Third Monday in May and first Monday in December.

(F) Tattnall County — Third Monday in April and October.

(5) Augusta Circuit:

(A) Burke County — Fourth Monday in April and October.

(B) Columbia County — Fourth Monday in March and September.

(C) Richmond County — Third Monday in January, March, May, July, September, and November.

(5.1) Bell-Forsyth Circuit:

Forsyth County — Second Monday in March, July, and November.

(6) Blue Ridge Circuit:

Cherokee County — Second Monday in January, May, and September.

(7) Brunswick Circuit:

(A) Appling County — Second and third Mondays in February and third and fourth Mondays in October.

(B) Camden County — First Monday in April and November.

(C) Glynn County — Second Monday in March and September.

(D) Jeff Davis County — First and second Mondays in March; fourth Monday in September; and first Monday in October.

(E) Wayne County — Third and fourth Mondays in April and November.

(8) Chattahoochee Circuit:

(A) Chattahoochee County — Fourth Monday in March and September.

(B) Harris County — Second Monday in January, May, and September.

(C) Marion County — Fourth Monday in April and October.

(D) Muscogee County — First Monday in February, April, June, August, October, and December.

(E) Talbot County — Second Monday in March and November and third Monday in August.

(F) Taylor County — Second Monday in February, June, and October.

(9) Cherokee Circuit:

(A) Bartow County — First Monday in February and August, fourth Monday in April, and third Monday in October.

(B) Gordon County — First Monday in March, December, and June; and second Monday in September.

(10) Clayton Circuit:

Clayton County — First Monday in February, May, August, and November.

(11) Cobb Circuit:

Cobb County — Second Monday in January, March, May, July, September, and November.

(12) Conasauga Circuit:

(A) Murray County — Second Monday in February and August.

(B) Whitfield County — Second Monday in January and July.

(13) Cordele Circuit:

(A) Ben Hill County — Second and third Mondays in January; first, second, and third Mondays in April; third and fourth Mondays in June; and third and fourth Mondays in September and Monday following.

(B) Crisp County — Third and fourth Mondays in February and Monday following; third and fourth Mondays in May; first, second, and third Mondays in August; and second and third Mondays in November.

(C) Dooly County — First and second Mondays in February; fourth Monday in April and Monday following; third and fourth Mondays in July; and third and fourth Mondays in October.

(D) Wilcox County — Second and third Mondays in March; fourth Monday in August and Monday following; and first and second Mondays in December.

(14) Coweta Circuit:

(A) Carroll County — Second Monday in January and first Monday in April and third Monday in June and first Monday in October.

(B) Coweta County — First Monday in March and first Tuesday in September.

(C) Heard County — Third Monday in March and September.

(D) Meriwether County — Third Monday in February, May, August, and November.

(E) Troup County — First Monday in February, May, August, and November.

(15) Dougherty Circuit:

Dougherty County — Second Monday in January, March, May, July, September, and November.

(15.1) Douglas Circuit:

Douglas County — Second Monday in April and October.

(16) Dublin Circuit:

(A) Johnson County — Third Monday in March, June, September, and December.

(B) Laurens County — Fourth Monday in January, April, July, and October.

(C) Treutlen County — Third Monday in February and August.

(D) Twiggs County — Second Monday in January, April, July, and October.

(17) Eastern Circuit:

Chatham County — First Monday in March, June, September, and December.

(17.1) **Enotah Circuit:**

(A) Towns County — January 1 and July 1.

(B) Union County — January 1 and July 1.

(C) Lumpkin County — Fourth Monday in February and August.

(D) White County — First Monday in April and October.

(18) **Flint Circuit:**

Henry County — Fourth Monday in January, April, and October and second Monday in July.

(19) (For effective date, see note.) **Griffin Circuit:**

(A) Fayette County — Second Monday in March and second Monday in September.

(B) Pike County — Second Monday in March and second Monday in September.

(C) Spalding County — Second Monday in March and second Monday in September.

(D) Upson County — Second Monday in March and second Monday in September.

(20) **Gwinnett Circuit:**

Gwinnett County — First Monday in March, June, and December and second Monday in September.

(21) **Houston Circuit:**

Houston County — First Monday in January, April, July, and October.

(22) **Lookout Mountain Circuit:**

(A) Catoosa County — First Monday in March and second Monday in September.

(B) Chattooga County — First Monday in February and August.

(C) Dade County — First Monday in April and second Monday in October.

(D) Walker County — First Monday in May and November.

(23) **Macon Circuit:**

(A) Bibb County — First Monday in February, April, June, August, October, and December.

(B) Crawford County — Third and fourth Mondays in March and October.

(C) Peach County — First and second Mondays in March and August and third and fourth Mondays in November.

(24) Middle Circuit:

(A) Candler County — First and second Mondays in February and August.

(B) Emanuel County — Second Monday in January, April, July, and October.

(C) Jefferson County — Second Monday in May and November.

(D) Toombs County — Fourth Monday in February, May, August, and November.

(E) Washington County — First Monday in March, June, September, and December.

(25) Mountain Circuit:

(A) Habersham County — January 1 and July 1.

(B) Rabun County — January 1 and July 1.

(C) Stephens County — January 1 and July 1.

(26) Northeastern Circuit:

(A) Dawson County — First Monday in March and second Monday in September.

(B) Hall County — First Monday in May and November and second Monday in January and July.

(27) Northern Circuit:

(A) Elbert County — Third Monday in January and fourth Monday in July.

(B) Franklin County — Third Monday in March and September.

(C) Hart County — Third Monday in February and August.

(D) Madison County — Third Monday in April and October.

(E) Oglethorpe County — Third Monday in May and November.

(28) Ocmulgee Circuit:

(A) Baldwin County — Second Monday in January, April, July, and October.

(B) Greene County — Fourth Monday in January, April, August, and November.

(C) Hancock County — Fourth Monday in March and September.

(D) Jasper County — Second Monday in February, May, August, and November.

(E) Jones County — First Monday in February and August and third Monday in April and October.

(F) Morgan County — First Monday in March, June, September, and December.

(G) Putnam County — Third Monday in March, June, September, and December.

(H) Wilkinson County — Fourth Monday in February, first Monday in April and October, and third Monday in August.

(29) Oconee Circuit:

(A) Bleckley County — Second Monday in March and July and fourth Monday in October, and there shall be a grand jury for each term.

(B) Dodge County — Third Monday in February, first Monday in June, and last Monday in September, and there shall be a grand jury for each term.

(C) Montgomery County — First Monday in February and second Monday in August, and there shall be a grand jury for each term.

(D) Pulaski County — Second Monday in April and September and first Monday in December, and there shall be a grand jury for each term.

(E) Telfair County — Third Monday in March and August and first Monday in November, and there shall be a grand jury for each term.

(F) Wheeler County — Last Monday in January and first Monday in August, and there shall be a grand jury for each term.

(30) Ogeechee Circuit:

(A) Bulloch County — First Monday in February, May, August, and November.

(B) Effingham County — First Monday in June and December.

(C) Jenkins County — First Monday in March and September.

(D) Screven County — Second Monday in January and first Monday in April, July, and October.

(31) Pataula Circuit:

(A) Clay County — Second Monday in March and September.

(B) Early County — Second Monday in January and July.

(C) Miller County — Third Monday in February and August.

(D) Quitman County — Fourth Monday in March and September.

(E) Randolph County — Second Monday in May and November.

(F) Seminole County — Third Monday in April and October.

(G) Terrell County — First Monday in June and December.

(31.1) Paulding Circuit:

Paulding County — Second Monday in January and July.

(32) Piedmont Circuit:

(A) Banks County — First Monday in February and August; and there shall be a grand jury for each term, but the grand jury shall not be required to be impaneled in the first day of each term.

(B) Barrow County — First Monday in February and August; and there shall be a grand jury for each term, but the grand jury shall not be required to be impaneled in the first day of each term.

(C) Jackson County — First Monday in February and August; and there shall be a grand jury for each term, but the grand jury shall not be required to be impaneled in the first day of each term.

(32.1) Rockdale Circuit:

Rockdale County — First Monday in January, April, July, and October.

(33) Rome Circuit:

Floyd County — Second Monday in January, March, July, and September and first Monday in May and November.

(34) South Georgia Circuit:

(A) Baker County — Third Monday in January and July.

(B) Calhoun County — Last Monday in May and November.

(C) Decatur County — First Monday in May and November.

(D) Grady County — Third Monday in March and September.

(E) Mitchell County — Third Monday in April and October.

(35) Southern Circuit:

(A) Brooks County — First Monday in April and October.

(B) Colquitt County — First Monday in February and August.

(C) Echols County — First Monday in February and August.

(D) Lowndes County — First Monday in March and first Tuesday immediately following first Monday in September.

(E) Thomas County — First Monday in April and October.

(36) Southwestern Circuit:

(A) Lee County — Fourth Monday in April and October.

(B) Macon County — Second Monday in May and November.

(C) Schley County — Second Monday in February and August.

(D) Stewart County — Third Monday in March and September.

(E) Sumter County — Fourth Monday in February, May, and August and the Monday following the fourth Thursday in November.

(F) Webster County — Second Monday in January and July.

(37) Stone Mountain Circuit:

DeKalb County — First Monday in January, March, May, July, September, and November.

(38) Tallapoosa Circuit:

(A) Haralson County — Third Monday in January and August.

(B) Polk County — Third Monday in March and July;

provided, however, that in the Tallapoosa Circuit, if the Monday set for the term of court to begin is a legal holiday, the term of court shall commence on the Tuesday next following that Monday.

(39) Tifton Circuit:

(A) Irwin County — Second Monday in February and second Monday in August.

(B) Tift County — Second Monday in March and second Monday in September.

(C) Turner County — Second Monday in April and second Monday in October.

(D) Worth County — Second Monday in January and second Monday in July.

(40) Toombs Circuit:

(A) Glascock County — Third Monday in February, May, August, and November.

(B) Lincoln County — Fourth Monday in January, third Monday in April, fourth Monday in July, and third Monday in October.

(C) McDuffie County — Second Monday in March, June, September, and December.

(D) Taliaferro County — Fourth Monday in February, May, August, and November.

(E) Warren County — Third Monday in January and first Monday in April, July, and October.

(F) Wilkes County — First Monday in February, May, August, and November.

(40.1) Towaliga Circuit:

(A) Butts County — Second Monday in January, April, July, and October.

(B) Lamar County — Second Monday in March, June, September, and December.

(C) Monroe County — Second Monday in February, May, August, and November.

(41) Waycross Circuit:

(A) Bacon County — Third Monday in April and second Monday in October.

(B) Brantley County — Fourth Monday in January and second Monday in September.

(C) Charlton County — Fourth Monday in February and September.

(D) Coffee County — Third Monday in March and October.

(E) Pierce County — First Monday in May and first Monday in December.

(F) Ware County — First Monday in April and second Monday in November;

provided, however, that if any term of court in the Waycross Circuit begins on an official state holiday, the term of court shall commence

on the following Tuesday; and if any other day within the term of court shall be an official state holiday, the court shall be closed for that holiday.

(42) Western Circuit:

(A) Clarke County — Second Monday in January, April, July, and October.

(B) Oconee County — Second Monday in March and September.

(Ga. L. 1982, p. 3, § 15; Ga. L. 1982, p. 439, §§ 1, 5; Ga. L. 1982, p. 536, § 2; Ga. L. 1982, p. 546, § 1; Ga. L. 1983, p. 3, § 12; Ga. L. 1983, p. 405, § 1; Ga. L. 1983, p. 415, § 1; Ga. L. 1983, p. 418, § 1; Ga. L. 1983, p. 761, § 4; Ga. L. 1984, p. 22, § 15; Ga. L. 1984, p. 331, § 1; Ga. L. 1984, p. 351, § 1; Ga. L. 1984, p. 439, § 1; Ga. L. 1984, p. 440, § 1; Ga. L. 1984, p. 498, § 1; Ga. L. 1985, p. 281, § 1; Ga. L. 1986, p. 230, § 1; Ga. L. 1986, p. 1526, § 1; Ga. L. 1987, p. 2, § 1; Ga. L. 1987, p. 37, § 1; Ga. L. 1987, p. 250, § 1; Ga. L. 1987, p. 294, § 1; Ga. L. 1987, p. 295, § 1; Ga. L. 1987, p. 296, § 1; Ga. L. 1988, p. 257, § 1; Ga. L. 1988, p. 258, § 1; Ga. L. 1988, p. 551, § 1; Ga. L. 1989, p. 283, § 1; Ga. L. 1990, p. 920, § 2; Ga. L. 1991, p. 372, § 1; Ga. L. 1992, p. 1786, § 4; Ga. L. 1993, p. 447, § 1; Ga. L. 1993, p. 805, § 1; Ga. L. 1994, p. 360, § 1; Ga. L. 1994, p. 1052, § 1; Ga. L. 1996, p. 829, § 1; Ga. L. 1998, p. 220, § 4; Ga. L. 1999, p. 67, § 15; Ga. L. 1999, p. 81, § 15; Ga. L. 1999, p. 158, § 1; Ga. L. 2000, p. 1242, § 1; Ga. L. 2000, p. 1312, § 1; Ga. L. 2002, p. 405, § 3-4; Ga. L. 2002, p. 468, §§ 1, 3; Ga. L. 2006, p. 701, § 1/SB 264; Ga. L. 2006, p. 873, §§ 1, 2/HB 1496; Ga. L. 2006, p. 893, § 1/HB 1423; Ga. L. 2007, p. 47, § 15/SB 103; Ga. L. 2007, p. 89, § 1/SB 177; Ga. L. 2007, p. 278, § 1/HB 53; Ga. L. 2008, p. 324, § 15/SB 455; Ga. L. 2009, p. 847, § 1/HB 216; Ga. L. 2013, p. 570, § 3-1/HB 451.)

Delayed effective date. — Paragraph (19), as set out above, becomes effective January 1, 2014. For version of paragraph (19) in effect until January 1, 2014, see the 2013 amendment note.

The 2013 amendment, effective January 1, 2014, in subparagraph (19)(A), substituted “Second” for “First”; in subparagraph (19)(B), substituted “Second Monday in March and second Monday in

September” for “Third Monday in April and October”; in subparagraph (19)(C), substituted “Second Monday in March and second Monday in September” for “First Monday in February, June, and October”; and in subparagraph (19)(D), substituted “Second Monday in March and second Monday in September” for “Third Monday in March and August and first Monday in November”.

JUDICIAL DECISIONS

Cited in *Andrews v. State*, 739 S.E.2d 445, No. A12A1874, 2013 Ga. App. LEXIS 142 (2013).

15-6-8. Jurisdiction and powers of superior courts.

The superior courts have authority:

(1) To exercise original, exclusive, or concurrent jurisdiction, as the case may be, of all causes, both civil and criminal, granted to them by the Constitution and laws;

(2) To exercise the powers of a court of equity;

(3) To exercise appellate jurisdiction from judgments of the probate or magistrate courts as provided by law;

(4) To exercise a general supervision over all inferior tribunals and to review and correct, in the manner prescribed by law, the judgments of:

(A) Magistrates;

(B) Municipal courts or councils;

(C) Any inferior judicature;

(D) Any person exercising judicial powers; and

(E) Judges of the probate courts, except in cases touching the probate of wills and the granting of letters of administration, in which a jury must be impaneled;

(5) To punish contempt by fines not exceeding \$1,000.00, by imprisonment not exceeding 20 days, or both; and

(6) To exercise such other powers, not contrary to the Constitution, as are or may be given to such courts by law. (Laws 1799, Cobb's 1851 Digest, p. 1135; Code 1863, § 242; Code 1868, § 236; Code 1873, § 246; Code 1882, § 246; Civil Code 1895, § 4320; Penal Code 1895, § 791; Civil Code 1910, § 4849; Penal Code 1910, § 791; Code 1933, § 24-2615; Ga. L. 1982, p. 974, §§ 1, 2; Ga. L. 1983, p. 884, § 3-10; Ga. L. 1987, p. 3, § 15; Ga. L. 2013, p. 561, § 1/SB 66.)

The 2013 amendment, effective July 1, 2013, in paragraph (5), substituted “\$1,000.00, by” for “\$500.00 and by” and inserted “, or both”.

JUDICIAL DECISIONS

ANALYSIS

GENERAL CONSIDERATION

General Consideration

Cited in Durham v. Durham, 291 Ga. 231, 728 S.E.2d 627 (2012).

15-6-9. Authority of judges generally.

JUDICIAL DECISIONS

Cited in *Durham v. Durham*, 291 Ga. 231, 728 S.E.2d 627 (2012).

15-6-10. Discharge of duties.

JUDICIAL DECISIONS

Cited in *Luangkhot v. State*, 292 Ga. 423, 736 S.E.2d 397 (2013).

15-6-12. Judges’ jurisdiction coextensive with limits of state; authority when serving in other circuits.

JUDICIAL DECISIONS

Cited in *Luangkhot v. State*, 292 Ga. 423, 736 S.E.2d 397 (2013).

15-6-18. Alternative locations.

Law reviews. — For annual survey on criminal law, see 64 Mercer L. Rev. 83 (2012).

15-6-23. Signing documents in any county in circuit.

JUDICIAL DECISIONS

Cited in *Luangkhot v. State*, 292 Ga. 423, 736 S.E.2d 397 (2013).

ARTICLE 2

CLERKS OF SUPERIOR COURTS

15-6-59. Bond; appointment of deputies.

JUDICIAL DECISIONS

ANALYSIS

DEPUTY CLERKS

Deputy Clerks

Termination of deputy clerk by court clerk.
Deputy court clerk’s First Amendment

rights were not violated when the deputy was terminated for running against the court clerk in a primary election; under O.C.G.A. § 15-6-59(b), the deputy had the same powers and duties as the clerk and

was therefore the type of confidential employee who could be fired for opposing the clerk in the election. *Underwood v. Harkins*, 698 F.3d 1335 (11th Cir. 2012).

15-6-62. Additional clerk duties.

Cross references. — Public records, § 24-10-1005.

15-6-62.1. Back-up records; submission.

(a) As used in this Code section, the term:

(1) “Back-up record” means a paper or microfilm copy of any record of the proceedings relating to any civil action or criminal case which a clerk of superior court is required to make pursuant to Code Section 15-6-62.

(2) “Council” means The Council of Superior Court Clerks created by Code Section 15-6-50.2.

(3) “Division” means the Georgia Division of Archives and History.

(b) Except as provided in subsection (d) of this Code section, a clerk of a superior court electing to record proceedings in digital format as provided in subsection (a) of Code Section 15-6-62 shall maintain back-up records and must do so in at least one of two ways: either by the clerk permanently retaining the back-up records himself or herself or by submitting the digitally formatted records to and having them permanently archived by the division as set forth in subsection (c) of this Code section.

(c) If a clerk of a superior court elects to submit the digitally formatted records to and have them permanently archived by the division pursuant to subsection (b) of this Code section, the clerk shall submit such records at least once every six months and in a format acceptable to the division and the council. Upon receipt, the division shall convert the digitally formatted records to microfilm and shall permanently maintain them in that format. If requested by the clerk of a superior court, the division shall make a copy of these microfilm records available for purchase by the clerk at a fee not to exceed the cost of producing the copies.

(d) If at any time the division certifies to the council that the division is not capable of creating the microfilm records from the digitally formatted records and permanently maintaining them as set forth in this Code section, then a clerk of superior court shall permanently maintain the back-up records himself or herself and shall continue to do so until the division certifies that it is capable of creating and permanently maintaining them. (Code 1981, § 15-6-62.1, enacted by Ga. L. 2001, p. 1001, § 3; Ga. L. 2013, p. 594, § 2-6/HB 287.)

The 2013 amendment, effective July 1, 2013, substituted “division” for “department” throughout this Code section and substituted “Division of Archives and History” for “Department of Archives and History” in paragraph (a)(3).

15-6-95. Priorities of distribution of fines, forfeitures, surcharges, additional fees, and costs in cases of partial payments into the court.

Notwithstanding any law to the contrary, a clerk of any superior court of this state who receives partial payments, as ordered by the court, of criminal fines, forfeitures, or costs shall distribute said sums in the order of priority set forth below:

(1) The amount provided for in Chapter 17 of Title 47 for the Peace Officers’ Annuity and Benefit Fund;

(2) The amount provided for in Chapter 14 of Title 47 for the Superior Court Clerks’ Retirement Fund of Georgia;

(3) The amount provided for in Chapter 16 of Title 47 for the Sheriffs’ Retirement Fund of Georgia;

(4) The amounts provided under subparagraphs (a)(1)(A) and (a)(2)(A) of Code Section 15-21-73;

(5) The amounts provided for under subparagraphs (a)(1)(B) and (a)(2)(B) of Code Section 15-21-73;

(6) The amounts provided for in Code Section 15-21-93 for jail construction and staffing;

(7) The amount provided for in Code Section 15-21-131 for funding local victim assistance programs;

(8) The amount provided for in Code Section 36-15-9 for county law libraries;

(9) The balance of the base fine owed to the county;

(10) The amount provided for in cases of driving under the influence for purposes of the Georgia Crime Victims Emergency Fund under Code Section 15-21-112;

(11) The application fee provided for in subsection (c) or (e) of Code Section 15-21A-6;

(12) The amount provided for in cases of driving under the influence for purposes of the Brain and Spinal Injury Trust Fund under Code Section 15-21-149;

(13) The amount provided for in Code Section 15-21-100 for the Drug Abuse Treatment and Education Fund; and

(14) The amounts provided for in subsection (d) of Code Section 42-8-34. (Code 1981, § 15-6-95, enacted by Ga. L. 1993, p. 374, § 1; Ga. L. 1994, p. 97, § 15; Ga. L. 2005, p. ES3, § 3; Ga. L. 2005, p. 1461, § 1/SB 226; Ga. L. 2006, p. 343, § 2/SB 637; Ga. L. 2008, p. 846, § 5/HB 1245; Ga. L. 2012, p. 993, § 2/SB 50; Ga. L. 2013, p. 141, § 15/HB 79.)

The 2013 amendment, effective April 24, 2013, part of an Act to revise, modernize, and correct the Code, substituted

“Code Section 15-21-149” for “Code Section 15-11-149” in paragraph (12).

CHAPTER 7

STATE COURTS OF COUNTIES

Article 1

General Provisions

Sec.
15-7-4. Jurisdiction.

ARTICLE 1

GENERAL PROVISIONS

15-7-4. Jurisdiction.

(a) Each state court shall have jurisdiction, within the territorial limits of the county or counties for which it was created and concurrent with the superior courts, over the following matters:

(1) The trial of criminal cases below the grade of felony;

(2) The trial of civil actions without regard to the amount in controversy, except those actions in which exclusive jurisdiction is vested in the superior courts;

(3) The hearing of applications for and the issuance of arrest and search warrants;

(4) The holding of courts of inquiry;

(5) The punishment of contempt by fines not exceeding \$1,000.00, by imprisonment not exceeding 20 days, or both; and

(6) Review of decisions of other courts as may be provided by law.

(b) Each state court shall have jurisdiction, within the territorial limits of the county or counties for which it was created and concurrent

with other courts having such jurisdiction, over possession of one ounce or less of marijuana, in accordance with Code Sections 16-13-2 and 16-13-30. (Code 1981, § 15-7-4, enacted by Ga. L. 1983, p. 1419, § 2; Ga. L. 1997, p. 1377, § 1; Ga. L. 2013, p. 561, § 2/SB 66.)

The 2013 amendment, effective July 1, 2013, substituted the present provisions of paragraph (a)(5) for the former provisions, which read: “The punishment of contempts by fine not exceeding \$500.00 or by imprisonment not exceeding 20 days, or both; and”.

CHAPTER 9

PROBATE COURTS

Article 8

Prosecuting Attorneys in Probate Courts in Counties in Which There is No State Court

- Sec.
- 15-9-150. Probate court judge may request district attorney of the circuit court to prosecute criminal cases; creation of prosecuting attorney position by ordinance or resolution; appointment of prosecuting attorney.
- 15-9-151. Qualifications of prosecuting attorney; appointment of assistant district attorneys.
- 15-9-152. Oath of office.
- 15-9-153. Determination whether prosecuting attorney shall be full time or part time; private practice of law prohibited for full-time prosecuting attorney and staff; certain limitations on private practice for part-time prosecuting attorney.
- 15-9-154. Disqualification of prosecuting attorney.
- 15-9-155. Prosecuting attorney’s duties; authority.
- 15-9-156. Prosecuting attorney’s compensation; reimbursement of expenses.
- 15-9-157. Employment of additional assistant prosecuting attorneys, employees, or independent contractors; duties; compensation.
- 15-9-158. Qualifications of assistant prosecuting attorneys; assistance by qualified law student or law school graduate.

ARTICLE 6

JURY TRIALS AND APPEALS

15-9-120. Definitions.

Law reviews. — For annual survey on wills, trusts, guardianships, and fiduciary administration, see 64 Mercer L. Rev. 325 (2012).

JUDICIAL DECISIONS

Statute was not an unconstitutional special law. — O.C.G.A. § 15-9-120(2), granting the right to a jury trial in the probate courts of counties with a certain population according to the 1990 decennial census “or any future such cen-

sus” was not an unconstitutional special law, under Ga. Const. 1983, Art. III, Sec. VI, Para. IV(a), because the statute’s use of the disjunctive “or” gave the statute the elasticity required to make the statute a general law as this allowed counties to move into or out of this class of counties according to the latest census. *Ellis v. Johnson*, 291 Ga. 127, 728 S.E.2d 200 (2012).

Dougherty County probate court allowed to hold jury trials. — Dougherty County, Ga., Probate Court

(Probate Court) had jurisdiction to hold jury trials because: (1) the 2010 census, which dropped the county’s population below that required by O.C.G.A. § 15-9-120(2) to allow jury trials in probate court was not effective until July 1, 2012, under O.C.G.A. § 1-3-1(d)(2)(D); and (2) a statutory amendment, effective on that date, decreased the population requirement. *Ellis v. Johnson*, 291 Ga. 127, 728 S.E.2d 200 (2012).

Cited in *Mays v. Rancine-Kinchen*, 291 Ga. 283, 729 S.E.2d 321 (2012).

15-9-121. Jury trials in civil cases.

JUDICIAL DECISIONS

Timing of jury trial demand.

Beneficiary could not claim an intervening niece untimely demanded a jury in a probate case, under O.C.G.A. § 15-9-121(a), because: (1) the beneficiary did not object in the trial court on the grounds raised on appeal, waiving the

grounds; (2) the niece was not a party until the niece was allowed to intervene, after which the niece timely demanded a jury; and (3) the niece’s motion to intervene was not a “pleading” triggering the jury trial demand deadline. *Ellis v. Johnson*, 291 Ga. 127, 728 S.E.2d 200 (2012).

15-9-123. Appeal.

JUDICIAL DECISIONS

Cited in *Mays v. Rancine-Kinchen*, 291 Ga. 283, 729 S.E.2d 321 (2012).

ARTICLE 8

PROSECUTING ATTORNEYS IN PROBATE COURTS IN COUNTIES IN WHICH THERE IS NO STATE COURT

Effective date. — This article became effective May 6, 2013.

Editor’s notes. — Ga. L. 2013, p. 565, § 2/SB 120, not codified by the General Assembly, provides that: “The provisions of this Act shall not be construed as altering any agreement in existence on the effective date of this Act between a county governing authority or a probate court of a

county with the district attorney for the judicial circuit in which such probate court for the district attorney to prosecute case in the probate court of such county nor shall this Act apply in any county in which the General Assembly has by local act provided for a prosecutor in the probate court.”

15-9-150. Probate court judge may request district attorney of the circuit court to prosecute criminal cases; creation of prosecuting attorney position by ordinance or resolution; appointment of prosecuting attorney.

(a) In any county in which there is no state court, the judge of the probate court may request the district attorney of the circuit in which the court is located to prosecute criminal cases subject to the jurisdiction of such probate court as set forth in Article 2 of this chapter and Article 2 of Chapter 13 of Title 40. The district attorney may designate one or more members of his or her staff to handle such cases in the probate court. The district attorney and any members of his or her staff who prosecute criminal cases in the probate court may be compensated in an amount to be fixed by the governing authority of the county.

(b) If for any reason the district attorney is unable to assist the probate court, he or she shall notify the probate court in writing, and the governing authority of the county, in its discretion, shall be authorized to create by ordinance or resolution the office of prosecuting attorney of the probate court, and the governing authority shall have the authority to hire the prosecuting attorney, who shall have the authority to prosecute criminal cases subject to the jurisdiction of such probate court as set forth in Article 2 of this chapter and Article 2 of Chapter 13 of Title 40. A copy of the resolution or ordinance creating the office of prosecuting attorney of the probate court shall be provided to the Prosecuting Attorneys' Council of the State of Georgia.

(c) It shall be the duty of the probate court clerk to notify the Prosecuting Attorneys' Council of the State of Georgia of the name of any person appointed to be the prosecuting attorney of a probate court within 30 days of such appointment.

(d) Unless otherwise provided by local law, the prosecuting attorney of the probate court shall serve at the pleasure of the governing authority of such county. (Code 1981, § 15-9-150, enacted by Ga. L. 2013, p. 565, § 1/SB 120.)

15-9-151. Qualifications of prosecuting attorney; appointment of assistant district attorneys.

(a) Any person appointed as the prosecuting attorney of a probate court pursuant to subsection (b) of Code Section 15-9-150 shall be a member in good standing of the State Bar of Georgia and admitted to practice before the appellate courts of this state.

(b) Notwithstanding the provisions of subsection (a) of Code Section 15-18-21, an assistant district attorney may be appointed as the prosecuting attorney of a probate court when:

(1) The district attorney who employs such assistant district attorney consents to such appointment; and

(2) If such assistant district attorney is not employed in the judicial circuit in which the probate court is located, the district attorney for the judicial circuit in which the probate court is located consents to such appointment.

(c) A district attorney may withdraw consent for an assistant district attorney's appointment pursuant to subsection (b) of this Code section at any time, provided that the probate court and the governing authority of the county in which such probate court is located is given notice not less than 30 days prior to the day that such assistant district attorney shall cease to serve as the prosecuting attorney of the probate court. (Code 1981, § 15-9-151, enacted by Ga. L. 2013, p. 565, § 1/SB 120.)

15-9-152. Oath of office.

(a) In addition to the oaths prescribed by Chapter 3 of Title 45, relating to official oaths, the prosecuting attorney of a probate court shall take and subscribe to the following oath: "I swear (or affirm) that I will well, faithfully, and impartially and without fear, favor, or affection discharge my duties as prosecuting attorney for the Probate Court of (here state the county) County."

(b) The oath shall be administered and attested by the judge of the probate court of such county as provided in Code Section 45-3-3 and filed as provided in Code Section 45-3-5. (Code 1981, § 15-9-152, enacted by Ga. L. 2013, p. 565, § 1/SB 120.)

15-9-153. Determination whether prosecuting attorney shall be full time or part time; private practice of law prohibited for full-time prosecuting attorney and staff; certain limitations on private practice for part-time prosecuting attorney.

(a) Unless otherwise provided by local law, the governing authority of the county shall determine whether the prosecuting attorney of a probate court shall be a full-time or part-time prosecuting attorney.

(b) Any full-time prosecuting attorney of a probate court and any full-time employees of the prosecuting attorney of a probate court shall not engage in the private practice of law.

(c) Any part-time prosecuting attorney of a probate court and any part-time assistant prosecuting attorney of a probate court may engage in the private practice of law, but shall not practice in the probate court

or appear in any matter in which that prosecuting attorney has exercised jurisdiction. A prosecuting attorney of a probate court and any assistant prosecuting attorney of a probate court shall be subject to all laws and rules governing the conduct of prosecuting attorneys in this state. (Code 1981, § 15-9-153, enacted by Ga. L. 2013, p. 565, § 1/SB 120.)

15-9-154. Disqualification of prosecuting attorney.

If the prosecuting attorney of a probate court is disqualified by interest or relationship from engaging in the prosecution of a particular case or is unable to perform the duties of said office due to illness or incapacity, the district attorney of such judicial circuit may prosecute such case. If the district attorney is to prosecute such case, the provisions of Code Section 15-18-5 shall apply. (Code 1981, § 15-9-154, enacted by Ga. L. 2013, p. 565, § 1/SB 120.)

15-9-155. Prosecuting attorney's duties; authority.

(a) The prosecuting attorney of a probate court shall have the duty and authority to represent the state:

(1) In the probate court:

(A) In the prosecution of any violation of the laws or ordinances of such county which is within the jurisdiction of such probate court and punishable by confinement or a fine or both or by a civil penalty authorized by Code Section 40-6-163;

(B) In the prosecution of any violation of state laws which by general law probate courts have been granted jurisdiction to try and dispose of such offenses, specifically including those offenses described in Article 2 of this chapter and Code Section 40-13-21; and

(C) In the prosecution of any weapons carry license revocation or denial pursuant to Code Section 16-11-129;

(2) In the appeal of any case prosecuted in the probate court to the superior court or the appellate courts of this state;

(3) In any case in which the defendant was convicted in the probate court and is challenging such conviction through habeas corpus;

(4) To administer the oaths required by law to the bailiffs or other officers of the court and otherwise to aid the presiding judge in organizing the court as may be necessary; and

(5) To perform such other duties as are or may be required by law or ordinance or which necessarily appertain to such prosecuting attorney's office.

(b) The prosecuting attorney of a probate court shall have the authority to:

(1) File, amend, and prosecute any citation, accusation, summons, or other form of charging instrument authorized by law for use in the probate court;

(2) Dismiss, amend, or enter a nolle prosequi on any accusation, citation, or summons filed in the probate court as provided by law, except that the prosecuting attorney of a probate court shall not have the authority to dismiss or enter a nolle prosequi in any case in which the accused is charged with a violation of state law other than one which the probate court has jurisdiction to try and dispose of such offense without the consent of the proper prosecuting officer having jurisdiction to try and dispose of such offense. As used in this paragraph, the term "proper prosecuting officer" means the district attorney for the judicial circuit;

(3) Reduce to judgment any fine, forfeiture, or restitution imposed by the probate court as part of a sentence in an ordinance case or forfeiture of a recognizance which is not paid in accordance with the order of the court. A prosecuting attorney of a probate court may institute such civil action in the courts of this state or of the United States or any of the several states to enforce such judgment against the property of the defendant; and

(4) Request and utilize the assistance of any other prosecuting attorney or other attorney employed by an agency of this state or its political subdivisions or authorities in the prosecution of any criminal action.

(c) The provisions of this Code section shall not be deemed to restrict, limit, or diminish any authority or power of the district attorney or any solicitor-general to represent this state in any criminal case in which the accused is charged with a felony or misdemeanor, when the probate court is acting as a court of inquiry pursuant to Article 2 of Chapter 7 of Title 17 or setting bail for any such offense, other than one which the probate court has, by law, jurisdiction to try and dispose of. (Code 1981, § 15-9-155, enacted by Ga. L. 2013, p. 565, § 1/SB 120.)

15-9-156. Prosecuting attorney's compensation; reimbursement of expenses.

The prosecuting attorney of a probate court shall be compensated by the county as provided by local law or, in the absence of such local law,

as provided by the governing authority of such county. The prosecuting attorney of a probate court shall be entitled to be reimbursed for actual expenses incurred in the performance of his or her official duties in the same manner and rate as other county employees. (Code 1981, § 15-9-156, enacted by Ga. L. 2013, p. 565, § 1/SB 120.)

15-9-157. Employment of additional assistant prosecuting attorneys, employees, or independent contractors; duties; compensation.

The prosecuting attorney of a probate court may employ such additional assistant prosecuting attorneys and other employees or independent contractors as may be provided for by local law or as may be authorized by the governing authority of the county. The prosecuting attorney of a probate court shall define the duties and fix the title of any attorney or other employee of the prosecuting attorney’s office. Personnel employed pursuant to this Code section shall be compensated by the county. (Code 1981, § 15-9-157, enacted by Ga. L. 2013, p. 565, § 1/SB 120.)

15-9-158. Qualifications of assistant prosecuting attorneys; assistance by qualified law student or law school graduate.

(a) Any assistant prosecuting attorney or other attorney at law employed by the county for the purposes of prosecuting in the probate court shall be a member in good standing of the State Bar of Georgia.

(b) A qualified law student or law school graduate who is allowed to practice pursuant to Code Section 15-18-22 or the Supreme Court of Georgia’s rules governing such practice may assist in the prosecution of cases in the probate court. (Code 1981, § 15-9-158, enacted by Ga. L. 2013, p. 565, § 1/SB 120.)

CHAPTER 10

MAGISTRATE COURTS

Article 3		Sec.	
Civil Proceedings			
Sec.			
15-10-43.	Statement of claim; service of process; answer to claim; de-	15-10-45.	Compulsory and permissive counterclaims.
			fault judgments; opening of default; relief in magistrate court.

ARTICLE 3

CIVIL PROCEEDINGS

15-10-43. Statement of claim; service of process; answer to claim; default judgments; opening of default; relief in magistrate court.

(a) Actions shall be commenced by the filing of a statement of claim, including the last known address of the defendant, in concise form and free from technicalities. The plaintiff or his or her agent shall sign and verify the statement of claim by oath or affirmation. At the request of any individual, the judge or clerk may prepare the statement of claim and other papers required to be filed in an action. The statement of claim shall include a brief statement of the claim giving the defendant reasonable notice of the basis for each claim contained in the statement of claim and the address at which the plaintiff desires to receive the notice of hearing.

(b) A copy of the verified statement of claim shall be served on the defendant personally, or by leaving a copy thereof at the defendant's dwelling or usual place of abode with some person of suitable age and discretion then residing therein, or by delivering a copy of the claim to an agent authorized by appointment or by law to receive service of process, and such service shall be sufficient. Service of said process shall be made within the county as provided in this Code section. Service outside the county shall be by second original as provided in Code Section 9-10-72. Said service shall be made by any official or person authorized by law to serve process in the superior court, by a constable, or by any person sui juris who is not a party to, or otherwise interested in, the action, who is specially appointed by the judge of said court for that purpose. When the claim and notice are served by a private individual, such individual shall make proof of service by affidavit, showing the time and place of such service on the defendant.

(c) An answer to the claim shall be filed with the court or orally presented to the judge or clerk of the court within 30 days after service of the statement of claim on the defendant to avoid a default. The answer shall be in concise form and free from technical requirements, but shall admit or deny the claim of the plaintiff. The answer shall contain the address at which the defendant desires to receive the notice of hearing. If the answer is presented to the judge or clerk orally, the judge or clerk shall reduce the answer to writing. Verification of an answer shall not be required. A copy of the answer shall be forwarded to the plaintiff and defendant with the notice of hearing. If an answer is timely filed or presented, the court shall within ten days of filing or presentation of the answer notify the defendant and the plaintiff of the

calling of a hearing on the claim. The notice shall include the date, hour, and location of the hearing, which date shall be not less than 15 nor more than 30 days after the date the notice is given. The notice shall be served on the plaintiff and the defendant by mail or personal service to the address given by the plaintiff at the time he or she files his or her claim and the address given by the defendant at the time he or she files or presents his or her answer. The date of mailing shall be the date the notice is given. The clerk shall enter a certificate of service.

(d) Upon failure of the defendant to answer the claim within 30 days after service of the statement of claim, the defendant shall be in default. The defaulting party may open the default upon filing an answer and upon payment of costs within 15 days of default. If the defendant is still in default after the expiration of 15 days after the answer is due, the plaintiff shall be entitled to a default judgment without further proof if the claim is for liquidated damages. When the claim is for unliquidated damages, the plaintiff must offer proof of the damage amount. Separate notice of the date and time of the unliquidated damages hearing shall be sent to the defendant at his or her service address. The defendant shall be allowed to submit evidence at that hearing on the issue of the amount of damage only.

(e)(1) When a hearing is scheduled pursuant to subsection (c) of this Code section, upon failure of the defendant to appear for the hearing, the plaintiff shall be entitled to have the defendant's answer stricken and a default judgment entered; provided, however, that no default judgment shall be granted if the defendant appears at trial through counsel. If the claim is for liquidated damages, the plaintiff shall be entitled to take a judgment in the amount set forth in the complaint without further proof. If the claim is for unliquidated damages, the plaintiff shall proceed to prove his or her damages and take judgment in an amount determined by the judge.

(2) When a hearing is scheduled pursuant to subsection (d) of this Code section, upon failure of the defendant to appear, the plaintiff shall be entitled to submit proof of the damages and take judgment in an amount determined by the judge.

(3) If the plaintiff fails to appear for a hearing scheduled pursuant to either subsection (c) or (d) of this Code section, the court on motion of the defendant, or on its own motion, may dismiss the plaintiff's complaint, with or without prejudice, in the discretion of the court.

(f) At any time before final judgment, the court, in its discretion, upon payment of costs, may allow the default to be opened for providential cause preventing the filing of required pleadings or for excusable neglect or where the judge, from all the facts, shall determine that a proper case has been made for the default to be opened, on terms

to be fixed by the court. In order to allow the default to be thus opened, the showing shall be made under oath, shall set up a meritorious defense, shall offer to plead *instanter*, and shall announce ready to proceed with the trial.

(g) Notwithstanding the provisions of Code Section 15-10-42, the magistrate court may grant relief from a judgment under the same circumstances as the state court may grant such relief. Requests for relief from judgments pursuant to this Code section in the magistrate court shall be by filing a written motion which sets forth the issues with reasonable specificity. The procedure shall then be the same as in other cases except the court may assess costs as seem just.

(h) A complaint in equity to set aside a judgment of the magistrate court may be brought under the same circumstances as a complaint to set aside a judgment in a court of record.

(i) Nothing in this chapter shall be construed to prohibit an employee of any corporation or other legal entity from representing the corporation or legal entity before the magistrate court. (Code 1981, § 15-10-43, enacted by Ga. L. 1983, p. 884, § 2-1; Ga. L. 1984, p. 22, § 15; Ga. L. 1985, p. 627, § 1; Ga. L. 1986, p. 701, § 3; Ga. L. 1993, p. 974, § 2; Ga. L. 1997, p. 922, § 1; Ga. L. 2008, p. 824, § 2/HB 958; Ga. L. 2013, p. 561, § 3/SB 66.)

The 2013 amendment, effective July 1, 2013, in subsection (c), substituted “shall” for “must” in the first sentence and near the end of the second sentence and added the fifth sentence.

Cross references. — Third-party practice, Uniform Rules for the Magistrate Courts, Rule 39.

15-10-45. Compulsory and permissive counterclaims.

(a) If any defendant has a counterclaim against the plaintiff arising out of the transaction or occurrence that is the subject matter of the plaintiff’s claim, which counterclaim does not require for its adjudication the presence of third parties over whom the court cannot obtain jurisdiction, such counterclaim shall be asserted by the defendant at or before the hearing on the plaintiff’s claim or thereafter be barred.

(b) If any defendant has a counterclaim against the plaintiff other than a compulsory counterclaim described in subsection (a) of this Code section, such counterclaim may be asserted by the defendant at or before the hearing on the plaintiff’s claim.

(c) If any defendant asserts a counterclaim against the plaintiff, the defendant shall file with the court a statement of the counterclaim in concise form and free from technicalities. The defendant’s counterclaim shall give the plaintiff reasonable notice of the basis for each claim contained in the counterclaim. The defendant shall sign the counter-

claim. At the request of a defendant, the judge or clerk may prepare the counterclaim. Verification of a counterclaim shall not be required.

(d) If the amount of a counterclaim exceeds the jurisdictional limits of the magistrate court, the case shall be transferred to any court of the county which has jurisdictional limits which exceed the amount of the counterclaim. If there is more than one court to which the action may be transferred, the parties may agree on the court to which the action shall be transferred, and, in the absence of any agreement, the judge of the magistrate court shall determine the court to which the action shall be transferred. If there is no other court to which the action may be transferred, it shall be transferred to the superior court of the county.

(e) A counterclaim may in the discretion of the magistrate be tried either separately or jointly with the plaintiff's claim. (Code 1981, § 15-10-45, enacted by Ga. L. 1983, p. 884, § 2-1; Ga. L. 1984, p. 22, § 15; Ga. L. 1984, p. 1096, § 6; Ga. L. 2008, p. 824, § 3/HB 958; Ga. L. 2013, p. 561, § 4/SB 66.)

The 2013 amendment, effective July 1, 2013, in subsections (a) through (c), substituted "counterclaim" for "claim" throughout; in subsection (a), substituted "counterclaim shall" for "claim must" near the middle and inserted "the" preceding "plaintiff's" near the end; in subsection (c), substituted "counterclaim" for "statement

of claim" in the second sentence, substituted "the counterclaim" for "and verify the statement of claim by oath or affirmation" in the third sentence, substituted "counterclaim" for "statement" in the fourth sentence, and added the fifth sentence.

ARTICLE 13

TRIALS OF CERTAIN MISDEMEANORS

15-10-260. Jurisdiction; penalties.

Law reviews. — For article on the 2012 amendment of this Code section, see 29 Ga. St. U.L. Rev. 290 (2012).

CHAPTER 11

JUVENILE PROCEEDINGS

Article 1
Juvenile Proceedings

PART 2

JUVENILE COURT ADMINISTRATION

Sec.
15-11-21. (Effective until January 1, 2014) Associate juvenile court judges; appointment and compensation; qualifications; conduct of hearings.

Sec.
15-11-23. (Effective until January 1, 2014) Appointment of judge pro tempore; authority; emolument.

Article 5
Child Advocate for the Protection of Children

15-11-172. (Effective until January 1, 2014) Office of the Child Advocate.

Delayed effective date. — Ga. L. 2013, p. 294, § 1/HB 242, revised Chapter 11 of Title 15, effective January 1, 2014. For the version of Chapter 11 effective until January 1, 2014, consult the bound

volume and the Code sections in this version of Chapter 11 in this supplement. For the version effective January 1, 2014, see the version of Chapter 11 following this version.

ARTICLE 1

JUVENILE PROCEEDINGS

PART 1

GENERAL PROVISIONS

15-11-2. (Effective until January 1, 2014) Definitions.

JUDICIAL DECISIONS

ANALYSIS

GENERAL CONSIDERATION
DELINQUENCY
DEPRIVATION

General Consideration

Failure to address child’s special immigrant juvenile status. — In a deprivation proceeding, a juvenile court erred by failing to address the child’s special immigrant juvenile status under 8 U.S.C. § 1101(a)(27)(J)(ii) and a remand was necessary since the juvenile court had

to determine whether the evidence supported the findings so that the federal government could address the issue in separate deportation proceedings. In the Interest of J. J. X. C., 318 Ga. App. 420, 734 S.E.2d 120 (2012).
Cited in Moore v. State, 319 Ga. App. 766, 738 S.E.2d 348 (2013).

Delinquency

Evidence sufficient to support adjudication of delinquency.

Evidence was sufficient for any rational trier of fact to find the juvenile delinquent due to the juvenile's involvement in the burglary of a pharmacy because an accomplice's testimony that the juvenile participated in the burglary was corroborated; the extraneous evidence, even if slight and entirely circumstantial, connected the juvenile to the burglary. In the Interest of R.W., 315 Ga. App. 227, 726 S.E.2d 708 (2012).

Deprivation

Deprivation prior to birth. — Juvenile court erred in taking judicial notice of a psychological evaluation and citizen review panel's report issued in a mother's case prior to a child's birth because the juvenile court could not consider the evaluation or report to determine whether the child was without proper parental care or control or that the mother was unfit to parent the child; neither of the documents were tendered into evidence, and there was no testimony as to the contents of the documents. In the Interest of S. D., 316 Ga. App. 86, 728 S.E.2d 749 (2012).

Evidence of deprived child.

Petition made valid allegations of deprivation as defined by O.C.G.A. § 15-11-2(8)(A), including the mother's leaving the children with the father and not visiting them, the mother's lack of appropriate housing and stable employment, the mother's lack of financial support for the children, and the mother's use of one child's disability benefits to pay the mother's own bills rather than to care for the child. In the Interest of M. M., 315 Ga. App. 673, 727 S.E.2d 279 (2012).

Order finding the children to be deprived and discontinuing reunification services was supported by the evidence; the fact that the father was unable to provide parental care and control of the children at the time of the deprivation hearing because of the conditions of the father's bond constituted clear and convincing evidence that the children were deprived. In addition, there was evidence that the father moved the children to

three different states to hide the children from the juvenile court, and the father had abused the children's mother causing the mother to leave the children to escape the father. In the Interest of A. S., 318 Ga. App. 457, 734 S.E.2d 225 (2012).

Juvenile court properly held that a 13-year-old grandson continued to be deprived under O.C.G.A. § 15-11-2(8)(A) because clear and convincing evidence established that the child was without the care necessary for the child's mental or emotional health based on the grandmother/guardian failing to complete family counseling as required. In the Interest of J. B., 319 Ga. App. 796, 738 S.E.2d 639 (2013).

Evidence sufficient to find deprivation or termination of parental rights.

Juvenile court did not err in terminating a mother's parental rights pursuant to O.C.G.A. § 15-11-94 because clear and convincing evidence supported the court's finding that the children were deprived under O.C.G.A. § 15-11-2(8)(A); the mother failed to complete counseling for her depression and parenting aide counseling, and the mother failed to exercise scheduled visits with the children. In the Interest of A. R., 315 Ga. App. 357, 726 S.E.2d 800 (2012).

Evidence sufficient for finding of deprivation.

Evidence supported a juvenile court's order finding a parent's child to be deprived, as the parent failed to obtain stable housing or a job, and relied on others for transportation; moreover, the parent had failed to maintain meaningful contact with the child, admitting that the parent was emotionally unable to do so. In the Interest of D. S., 316 Ga. App. 296, 728 S.E.2d 890 (2012).

Evidence insufficient for finding of deprivation.

Juvenile court erred in finding that a child was deprived under O.C.G.A. § 15-11-2(8)(A) because the evidence demonstrated that the mother properly cared for the child and that the child's needs were being met; the only reason a county department of family and children services (DFACS) filed the deprivation petition was because the mother was in

DFACS care and because of possible future deprivation, but that was not the standard since the state had to present evidence of present deprivation, which the state failed to do. In the Interest of S. D., 316 Ga. App. 86, 728 S.E.2d 749 (2012).

Evidence did not support a finding of deprivation because there was no psychological evaluation included in the record, or reports from treating physicians, or

medical reports indicating any mental impairment or how that mental impairment might limit the mother's parental abilities, and the only other evidence in this regard was from the grandmother about the mother having ADHD, learning disabilities, and being "mildly retarded." In the Interest of D. W., 318 Ga. App. 725, 734 S.E.2d 543 (2012).

PART 2

JUVENILE COURT ADMINISTRATION

15-11-21. (Effective until January 1, 2014) Associate juvenile court judges; appointment and compensation; qualifications; conduct of hearings.

(a) The judge may appoint one or more persons to serve as an associate juvenile court judge in juvenile matters on a full-time or part-time basis. The associate juvenile court judge shall serve at the pleasure of the judge, and his or her salary shall be fixed by the judge with the approval of the governing authority or governing authorities of the county or counties for which the associate juvenile court judge is appointed. The salary of each associate juvenile court judge shall be paid from county funds.

(b) Each associate juvenile court judge shall have the same qualifications as required for a judge of the juvenile court as provided in subsection (e) of Code Section 15-11-18; provided, however, that any person serving as an associate juvenile court judge on July 1, 2007, shall be qualified for appointment thereafter to serve as an associate juvenile court judge.

(c) In any case or class of cases involving alleged delinquent, unruly, or deprived children, the judge shall determine whether such case shall be conducted by the judge or by the associate juvenile court judge in the manner provided by this article.

(d) Upon the conclusion of a hearing before an associate juvenile court judge, the associate juvenile court judge shall sign and file an order of the court which sets forth the decision made by the associate juvenile court judge. A copy of the order shall be given to the parties to the proceedings. (Ga. L. 1915, p. 35, § 29; Code 1933, § 24-2429; Ga. L. 1950, p. 367, § 6; Ga. L. 1951, p. 291, § 5; Code 1933, § 24A-701, enacted by Ga. L. 1971, p. 709, § 1; Code 1981, § 15-11-10; Ga. L. 1982, p. 2199, § 2; Ga. L. 1986, p. 1017, § 1; Ga. L. 1990, p. 1691, § 4; Ga. L. 1991, p. 627, § 2; Ga. L. 1994, p. 562, § 1; Ga. L. 1998, p. 653, § 5; Code

1981, § 15-11-21, as redesignated by Ga. L. 2000, p. 20, § 1; Ga. L. 2007, p. 423, § 1/HB 168; Ga. L. 2007, p. 590, § 1/HB 153; Ga. L. 2008, p. 324, § 15/SB 455; Ga. L. 2013, p. 122, § 1-1/HB 182.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

The 2013 amendment, effective July 1, 2013, deleted subsection (e), which

read: “A rehearing may be ordered by the judge at any time and, except for detention hearings or probable cause hearings, shall be ordered if a party files a written request therefor within five days after receiving a copy of the order of the associate juvenile court judge.”

15-11-23. (Effective until January 1, 2014) Appointment of judge pro tempore; authority; emolument.

In the event of the disqualification, illness, or absence of the judge of the juvenile court, the judge of the juvenile court may appoint any attorney at law resident in the judicial circuit in which the court lies, any judge or senior judge of the superior courts, any duly appointed juvenile court judge, or any duly appointed associate juvenile court judge to serve as judge pro tempore of the juvenile court. In the event the judge of the juvenile court is absent or unable to make such appointment, the judge of the superior court of that county may so appoint. The person so appointed shall have the authority to preside in the stead of the disqualified, ill, or absent judge and shall be paid from the county treasury such emolument as the appointing judge shall prescribe; provided, however, that the emolument shall not exceed the compensation received by the regular juvenile court judge for such services. (Ga. L. 1916, p. 58, § 4; Code 1933, § 24-2442; Ga. L. 1950, p. 367, § 5; Ga. L. 1960, p. 200, § 1; Ga. L. 1962, p. 150, § 1; Code 1933, § 24A-3701, enacted by Ga. L. 1971, p. 709, § 1; Ga. L. 1974, p. 1126, § 9; Ga. L. 1977, p. 812, § 1; Code 1981, § 15-11-63; Code 1981, § 15-11-23, as redesignated by Ga. L. 2000, p. 20, § 1; Ga. L. 2013, p. 122, § 1-2/HB 182.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

The 2013 amendment, effective July

1, 2013, in this Code section, substituted “any duly appointed juvenile court judge, or any duly appointed associate juvenile court judge” for “or any duly appointed juvenile court judge” near the middle of the first sentence.

PART 3

JURISDICTION AND VENUE

15-11-28. (Effective until January 1, 2014) Jurisdiction of juvenile court.**JUDICIAL DECISIONS****ANALYSIS**

GENERAL CONSIDERATION

GENERAL JURISDICTION

CONCURRENT JURISDICTION

General Consideration**Proceeding for termination of parental rights, etc.**

Pursuant to O.C.G.A. § 15-11-28(a)(2)(C), the superior court did not have subject matter jurisdiction to terminate the husband's parental rights because the biological father's petition to legitimate a child who was born in wedlock was a petition to terminate the parental rights of the legal father; after the superior court determined that the biological father had not abandoned his opportunity interest, the issue became whether the superior court could grant the petition to legitimate the child, and to grant the legitimation petition required the superior court to first terminate the parental rights of the husband, who was the legal father. *Brine v. Shipp*, 291 Ga. 376, 729 S.E.2d 393 (2012).

Custody dispute of orphaned children. — In a custody dispute involving children orphaned by the murder-suicide of their parents, a superior court did not err in denying an aunt's motion to dismiss for lack of jurisdiction because the superior court correctly held that, in the absence of an earlier-filed action in juvenile court or probate court, it was the first court to take jurisdiction and properly retained jurisdiction. *Stone-Crosby v. Mickens-Cook*, 318 Ga. App. 313, 733 S.E.2d 842 (2012).

General Jurisdiction

Lack of jurisdiction to award permanent custody. — Judgment was re-

versed because the juvenile court's authority to place a child in the custody of a "willing" and "qualified" relative was not authority to award permanent custody of the child as custody was determined by discerning the best interests of the child and not the willingness or the qualifications of a person to take temporary custody of the child. *Ertter v. Dunbar*, 292 Ga. 103, 734 S.E.2d 403 (2012).

Concurrent Jurisdiction**Matters relating to adoption.**

Superior court erred by terminating a putative father's parental rights and granting a petition for adoption of a couple because the court lacked jurisdiction since a Georgia juvenile court took jurisdiction first with regard to the child. It should be noted that Georgia courts have repeatedly held that the first court taking jurisdiction will retain jurisdiction. *Alizota v. Stanfield*, No. A12A0981, 2012 Ga. App. LEXIS 969 (Nov. 20, 2012).

First court to take jurisdiction will retain jurisdiction,

Georgia superior court erred by ordering a father's parental rights terminated and granting a couple's petition for adoption because the court lacked jurisdiction in the case since adoption had already commenced via a deprivation proceeding in a Georgia juvenile court; thus, the juvenile court should have presided over the termination proceeding. *Alizota v. Stanfield*, 319 Ga. App. 256, 734 S.E.2d 497 (2012).

15-11-29. (Effective until January 1, 2014) Venue.

JUDICIAL DECISIONS

Challenge to court's jurisdiction unsuccessful.

There was sufficient evidence that venue was proper in Douglas County, Georgia, in a deprivation proceeding, as the Douglas County Department of Family and Children Services (DFCS) had been involved with the family for some time; the subject child's parent lived in a

shelter in Douglas County in May and June of 2010, and at the time the deprivation petition was filed the child was in the custody of the Douglas County DFCS, where the child remained through the entry of the deprivation order. In the Interest of D. S., 316 Ga. App. 296, 728 S.E.2d 890 (2012).

15-11-30.1. (Effective until January 1, 2014) Appointment of guardian; transfer of custody and support questions from superior courts.

JUDICIAL DECISIONS

Award of permanent guardianship affirmed. — Award of permanent guardianship to the aunt was affirmed because the mother gave no reason to believe that any objection to taking judicial notice of the deprivation order would have had any

merit, nor did the mother identify specific evidence that the mother would have brought forward to challenge the earlier deprivation order. In the Interest of L. B., 319 Ga. App. 173, 735 S.E.2d 162 (2012).

15-11-30.2. (Effective until January 1, 2014) Transfer to another court for prosecution; grounds and prerequisites; termination of juvenile court jurisdiction; admissibility of child's statements in criminal proceedings; excepted proceedings.

JUDICIAL DECISIONS

ANALYSIS

AMENABILITY TO TREATMENT

Amenability to Treatment

Evidence supported juvenile court's judgment ordering transfer of charges for trial in superior court.

Juvenile court did not abuse the court's discretion in determining that the community's interest in having the defendant prosecuted as an adult, pursuant to O.C.G.A. § 15-11-30.2(a), outweighed the defendant's interest in having the case stay in juvenile court because the factors favoring the community's interest out-

weighed the defendant's amenability to treatment in the juvenile court, particularly, the seriousness of the offenses in that the defendant killed a child and caused another to be a quadriplegic, the fact that the defendant was the instigator, the limited options for detention and supervision available to the juvenile court in dealing with the defendant, and the community's need for a full and public trial. In the Interest of J. R. L., 319 Ga. App. 666, 738 S.E.2d 144 (2013).

15-11-30.3. (Effective until January 1, 2014) Commission of designated felony act of burglary by child 15 years of age or older; procedure; transfer for prosecution; retransfer to juvenile court.

Law reviews. — For article on the 2012 amendment of this Code section, see 29 Ga. St. U.L. Rev. 290 (2012).

PART 4

COMMENCEMENT AND CONDUCT OF PROCEEDINGS

15-11-35. (Effective until January 1, 2014) Commencement of proceedings.

JUDICIAL DECISIONS

Addressing child’s special immigrant juvenile status. — In a deprivation proceeding, a juvenile court erred by failing to address the child’s special immigrant juvenile status under 8 U.S.C. § 1101(a)(27)(J)(ii) and a remand was necessary since the juvenile court had to

determine whether the evidence supported the findings so that the federal government could address the issue in separate deportation proceedings. In the Interest of J. J. X. C., 318 Ga. App. 420, 734 S.E.2d 120 (2012).

15-11-39. (Effective until January 1, 2014) Time for hearing; summons; waiver of service of summons.

JUDICIAL DECISIONS

Cited in In the Interest of D. W., 318 Ga. App. 725, 734 S.E.2d 543 (2012).

15-11-40. (Effective until January 1, 2014) Modification or vacation of orders; revocation of probation; petition; hearing and notice.

JUDICIAL DECISIONS

ANALYSIS

MODIFICATION OR VACATION OF ORDERS

Modification or Vacation of Orders
New disposition was sanction for original offense. — Although the initial act of bringing a weapon to school was not a designated felony under the statute in effect when a juvenile’s probation was

revoked, a dispositional order imposed upon revocation of probation related to the original delinquent act because the new disposition was a sanction for the original offense. In the Interest of N.M., 316 Ga. App. 649, 730 S.E.2d 127 (2012).

PART 6

DEPRIVATION

15-11-54. (Effective until January 1, 2014) Findings in deprivation proceedings.**JUDICIAL DECISIONS**

Addressing child's special immigrant juvenile status. — In a deprivation proceeding, a juvenile court erred by failing to address the child's special immigrant juvenile status under 8 U.S.C. § 1101(a)(27)(J)(ii) and a remand was necessary since the juvenile court had to

determine whether the evidence supported the findings so that the federal government could address the issue in separate deportation proceedings. In the *Interest of J. J. X. C.*, 318 Ga. App. 420, 734 S.E.2d 120 (2012).

15-11-58. (Effective until January 1, 2014) Reunification of family; custody orders when reunification found not to be in child's best interest.**JUDICIAL DECISIONS****ANALYSIS****GENERAL CONSIDERATION****General Consideration**

Concurrent jurisdiction. — Superior court erred by terminating a putative father's parental rights and granting a petition for adoption of a couple because the court lacked jurisdiction since a Georgia juvenile court took jurisdiction first with regard to the child. It should be noted that Georgia courts have repeatedly held that the first court taking jurisdiction will retain jurisdiction. *Alizota v. Stanfield*, No. A12A0981, 2012 Ga. App. LEXIS 969 (Nov. 20, 2012).

Jurisdiction to award permanent custody over juvenile court's award of temporary custody. — Judgment was reversed because the juvenile court's authority to place a child in the custody of a "willing" and "qualified" relative was not authority to award permanent custody of the child as custody was determined by discerning the best interests of the child and not the willingness or the qualifications of a person to take temporary cus-

tody of the child. *Ertter v. Dunbar*, 292 Ga. 103, 734 S.E.2d 403 (2012).

Application of subsection (n).

Georgia superior court erred by ordering a father's parental rights terminated and granting a couple's petition for adoption because the court lacked jurisdiction in the case since the termination had already commenced via a deprivation proceeding in a Georgia juvenile court; thus, the juvenile court should have presided over the termination proceeding. *Alizota v. Stanfield*, 319 Ga. App. 256, 734 S.E.2d 497 (2012).

Relative placement not a priority.

— Children were entitled to have juvenile court's order awarding the aunt and uncle custody vacated because the rehearing court erroneously held that the Juvenile Code established a preference for relative placement; while O.C.G.A. § 15-11-58 listed the custody options available to a juvenile judge in a certain order, the list was not to be construed as expressing a legislative intent for priority of placement.

In the Interest of J. C. W., 318 Ga. App. 772, 734 S.E.2d 781 (2012).

PART 7

DELINQUENT AND UNRULY CHILDREN

15-11-63. (Effective until January 1, 2014) Designated felony acts; restrictive custody disposition; notice to schools.

JUDICIAL DECISIONS

Proper restrictive custody finding.

Oral statements the juvenile court made during the hearing did not show that the juvenile court abused the court's discretion in placing the juvenile in restrictive custody because the statements were not replicated in the juvenile court's written order, which set forth the juvenile court's basis for committing the juvenile to restrictive custody. Furthermore, the commitment order showed that the juvenile court found the juvenile to be in need of secure confinement and rehabilitation before the juvenile was allowed to return to the community, and that was sufficient to show that the juvenile court considered the juvenile's needs and best interests. In the Interest of R.W., 315 Ga. App. 227, 726 S.E.2d 708 (2012).

Juvenile court erred by ordering a juvenile into restrictive custody under O.C.G.A. § 15-11-63 after failing to make specific written findings of fact in the court's disposition order and, instead, relying on boilerplate text that the court had considered the necessary factors following the juvenile's delinquency adjudication for violating O.C.G.A. § 16-11-127.1(b)(1) for possession of a weapon in a school zone. In the Interest of J.X.B., 317 Ga. App. 492, 731 S.E.2d 381 (2012).

Sufficient findings warranting restrictive custody.

Juvenile court did not abuse the court's discretion in placing the juvenile in re-

strictive custody because the juvenile court, following a hearing and upon considering the evidence presented, made the finding required under O.C.G.A. § 15-11-63(c) to determine whether restrictive custody was required; any alleged predisposition to commit the juvenile to restrictive custody was belied by the juvenile court's pronouncement of intent to review the record before issuing any ruling. In the Interest of R.W., 315 Ga. App. 227, 726 S.E.2d 708 (2012).

Juvenile court did not err in sentencing the juvenile as a designated felon because the juvenile court considered the factors in O.C.G.A. § 15-11-63, and the court's findings that the juvenile had three prior separate felony adjudications, that the juvenile had a pistol during the commission of the crimes, and that the community needed protection from the juvenile were sufficient. In the Interest of K.F., 316 Ga. App. 437, 729 S.E.2d 575 (2012).

Predisposition detainment credit mandated. — Juvenile court erred in ordering that a juvenile receive no credit for time served because O.C.G.A. § 15-11-63(e)(1)(B) mandated that the juvenile's predisposition detainment had to be credited to the time set for confinement. In the Interest of L.R., 316 Ga. App. 374, 729 S.E.2d 520 (2012).

Cited in In the Interest of N.M., 316 Ga. App. 649, 730 S.E.2d 127 (2012); In the Interest of J. R. L., 319 Ga. App. 666, 738 S.E.2d 144 (2013).

15-11-65. (Effective until January 1, 2014) Dispositional hearing for delinquent or unruly child; evidence in proceedings; continuances and scheduling.

JUDICIAL DECISIONS

ANALYSIS

GENERAL CONSIDERATION

General Consideration

Cited in In the Interest of N.M., 316 Ga. App. 649, 730 S.E.2d 127 (2012).

15-11-66. (Effective until January 1, 2014) Disposition of delinquent child.

JUDICIAL DECISIONS

Credit for time served. — Prior to the 2010 amendment of O.C.G.A. § 15-11-66, the defendant was not entitled to credit for time served prior to adjudication of delinquency for the probation violation. In the Interest of M. A. I., 319 Ga. App. 578, 737 S.E.2d 585 (2013).

Confinement of juvenile for public indecency not allowed. — Since the defendant's delinquent act of public indecency did not constitute an act which, if

committed by an adult, would be punishable either as a felony or as a misdemeanor of a high and aggravated nature involving bodily injury or a substantial likelihood of injury under O.C.G.A. § 15-11-66, the juvenile court's sentence which included confinement exceeded that allowed by law and was void. In the Interest of C. H., 319 Ga. App. 373, 735 S.E.2d 291 (2012).

15-11-66.1. (Effective until January 1, 2014) Disposition of child committing delinquent act constituting AIDS transmitting crime; submission to HIV test; report of results.

Cross references. — Confidential nature of AIDS information, § 24-12-20.

15-11-70. (Effective until January 1, 2014) Duration and termination of orders of disposition for delinquent or unruly children; extensions.

JUDICIAL DECISIONS

Extension of probation proper.

Juvenile's inability to comply with the juvenile court's order to complete 120 days of a reporting program without extending probation was directly attributable to the juvenile's actions in violating probation

and, thus, the juvenile court did not err in extending the juvenile's probation period. In the Interest of M. A. I., 319 Ga. App. 578, 737 S.E.2d 585 (2013).

Cited in In the Interest of J. R. L., 319 Ga. App. 666, 738 S.E.2d 144 (2013).

15-11-72. (Effective until January 1, 2014) Nature and effect of adjudication.

JUDICIAL DECISIONS

Cited in In the Interest of N.M., 316 Ga. App. 649, 730 S.E.2d 127 (2012).

PART 8

ACCESS TO RECORDS AND HEARINGS

15-11-83. (Effective until January 1, 2014) When child shall be fingerprinted or photographed; confidentiality, inspection, and destruction of fingerprint files; publication of names and pictures of children.

Law reviews. — For article on the 2012 amendment of this Code section, see 29 Ga. St. U.L. Rev. 290 (2012).

ARTICLE 2

TERMINATION OF PARENTAL RIGHTS

15-11-94. (Effective until January 1, 2014) Grounds for termination; other dispositions.

JUDICIAL DECISIONS

ANALYSIS

GENERAL CONSIDERATION

FINDINGS

CLEAR AND CONVINCING STANDARD

MEDICAL AND PSYCHOLOGICAL FACTORS

SUFFICIENT EVIDENCE FOR TERMINATION

INSUFFICIENT EVIDENCE FOR TERMINATION

DEPRIVATION

General Consideration

Cited in In the Interest of D. W., 318 Ga. App. 725, 734 S.E.2d 543 (2012).

Findings

Denial of maternal grandmother's petition for custody proper. — In a termination of parental rights proceeding, a juvenile court did not err by denying the maternal grandmother's petition for custody of the child because the grandmother had never seen the child and called the

state only once about the child. In the Interest of S.R.C.J., 317 Ga. App. 699, 732 S.E.2d 547 (2012).

Clear and Convincing Standard

Clear and convincing evidence supported termination of mother's parental rights.

Juvenile court did not err in terminating a mother's parental rights pursuant to O.C.G.A. § 15-11-94 because clear and convincing evidence supported the court's finding that the children were deprived

under O.C.G.A. § 15-11-2(8)(A); the mother failed to complete counseling for her depression and parenting aide counseling, and the mother failed to exercise scheduled visits with the children. In the Interest of A. R., 315 Ga. App. 357, 726 S.E.2d 800 (2012).

Medical and Psychological Factors

Mother with untreated depression.

— Juvenile court did not err in terminating a mother's parental rights pursuant to O.C.G.A. § 15-11-94 because any rational trier of fact could have found by clear and convincing evidence that the mother suffered from a medically verifiable deficiency such as to render her unable to provide adequately for the needs of the children; a psychological evaluation showed that the mother was diagnosed with depression, and the clinician who counseled the mother for depression testified that the mother's ability to function in society was compromised by her low IQ, her depression, and her failure to take her medication. In the Interest of A. R., 315 Ga. App. 357, 726 S.E.2d 800 (2012).

Sufficient Evidence for Termination

Evidence held sufficient to justify termination of parental rights.

Juvenile court properly ordered a mother's termination of her parental rights to her child because clear and convincing evidence showed that the child's continued deprivation was likely to cause the child serious harm based on the mother's failure to show an end to her drug abuse, her failure to provide for the child, the absence of a bond between the mother and the child, the child's bond with her foster parents, and the foster parents' wish to adopt. In the Interest of S.R.C.J., 317 Ga. App. 699, 732 S.E.2d 547 (2012).

Termination of the mother's parental rights was upheld because the evidence showed that the mother had committed repeated criminal acts resulting in the mother's incarceration, the mother had a history of acting violently toward those close to the mother, and the mother failed to attend drug and alcohol assessment, maintain a stable home, or make any child

support payments. In the Interest of D. T. A., 318 Ga. App. 182, 733 S.E.2d 466 (2012).

Termination of the father's parental rights was supported by evidence that the father was not capable of caring for the child without assistance and the father's niece was not deemed an appropriate placement for the child due to inconsistent drug test results and unstable financial status. In addition, the mother continued to reside with the father, making the father's residence an unsafe place for the child to live. In the Interest of T.G., 318 Ga. App. 191, 733 S.E.2d 777 (2012).

Termination of mother's parental rights appropriate.

Evidence allowed a finding that a mother's children were deprived at the time of the termination order as the mother continued to reside in the same unsanitary house that the Department of Children and Families found unsuitable for the children, and she continued to have a relationship with the father; thus, the conditions upon which the trial court's deprivation findings were based still existed at the time of the termination hearing. In the Interest of K.L.M., 316 Ga. App. 246, 729 S.E.2d 452 (2012).

Insufficient Evidence for Termination

Insufficient evidence that continued deprivation likely to cause harm.

— Juvenile court's finding that the deprivation of a mother's children was likely to continue did not state any specific facts that led to the conclusion that there was a likelihood of serious harm from continued deprivation; thus, the matter was remanded for appropriate findings and conclusions. In the Interest of K.L.M., 316 Ga. App. 246, 729 S.E.2d 452 (2012).

Hearsay. — Based upon the juvenile court's express reliance upon hearsay in an exhibit to support the court's conclusion that a parent suffered from schizophrenia to such a degree that the parent was unable to provide for the needs of the parent's child, termination of parental rights was inappropriate. In the Interest of C. A., 316 Ga. App. 185, 728 S.E.2d 816 (2012).

Termination of mother’s parental rights inappropriate.

Mother was entitled to reversal of the order terminating the mother’s parental rights because the mother’s circumstances at the time of the termination hearing were significantly different from those which caused the child to be removed from the mother’s custody; among other things, the mother established stable housing near a child care center that could provide specialized care for the child, had obtained a driver’s license, was a college student, had exercised unsupervised visitation, had attended most of the child’s medical appointments, had completed anger and violence counseling, had completed parenting classes, and knew how to care for the medically fragile child. In the Interest of M. T. F., 318 Ga. App. 135, 733 S.E.2d 432 (2012).

Evidence was insufficient to support the juvenile court’s order terminating the mother’s parental rights to the child because it was undisputed that the mother had completed most of the mother’s case plan goals by the time the termination petition was filed. The mother had submitted to two psychological evaluations, attended a parenting class, and worked steadily toward achieving stable housing, and the specific requirement that she participate with the recommendations of a developmental disability organization was not added to her case plan until two months before the petition was filed and the mother was participating, to some extent, with the organization. In the Interest of D. J., No. A12A2176, 2013 Ga. App. LEXIS 166 (Mar. 11, 2013).

Evidence insufficient for termination of father’s parental rights.

Father was entitled to have the order terminating the father’s parental rights reversed because the testimony indicated that the father had maintained a bond with the children, and the father was making progress on the father’s case plan, completing parental and anger management classes, addressing the father’s substance abuse issue, maintaining suitable employment for a long period of time, and maintaining suitable housing. In the In-

terest of C. S., 319 Ga. App. 138, 735 S.E.2d 140 (2012).

Deprivation

Deprivation likely to continue.

Juvenile court’s finding that continued deprivation was likely to cause serious physical, mental, emotional, or moral harm to the children was supported by the record because the mother repeatedly failed to comply with the requirements of her case plan to reunite with her children. In the Interest of A. R., 315 Ga. App. 357, 726 S.E.2d 800 (2012).

Evidence supported a finding that a mother’s deprivation of her children was caused by a lack of proper parental care as the mother failed to sever contact with the father, that she defended the father, and that she diverted resources to the father instead of paying child support or securing appropriate housing. This deprivation was likely to continue. In the Interest of K.L.M., 316 Ga. App. 246, 729 S.E.2d 452 (2012).

Sufficient evidence that continued deprivation likely to cause harm.

In a termination of parental rights case, there was sufficient evidence that continued deprivation was likely to seriously harm the children. The deprivation involved, among other things, the mother repeatedly relapsing into drug abuse and her repeated incarceration for crimes and violations of probation, and there was testimony about the children’s need for permanency. In the Interest of C.L., 315 Ga. App. 607, 727 S.E.2d 163 (2012).

Indication of future deprivation.

In a termination of parental rights case, the evidence was sufficient to support the finding that the deprivation was likely to continue. The mother was arrested and jailed following the birth of her older child and violated her probation at least twice; furthermore, even if she left her first rehabilitation program for legitimate reasons, she left it without permission, relapsed into drug abuse, and failed to notify the Department of Family and Children Services of her whereabouts. In the Interest of C.L., 315 Ga. App. 607, 727 S.E.2d 163 (2012).

ARTICLE 3

PARENTAL NOTIFICATION

Cross references. — Parental Notification Act, Rules of the Supreme Court of Georgia, Rules 62 — 66. Parental Notification Act, Rules of the Court of Appeals of the State of Georgia, Rule 45.

15-11-110. (Effective until January 1, 2014) Short title.

JUDICIAL DECISIONS

Standard of proof. — Parental Notification Act, O.C.G.A. § 15-11-110 et seq., does not require a quantum of proof greater than a preponderance of the evidence. The juvenile court is not tasked with balancing any broader societal interests; thus, there is no basis for imposing a heightened “clear and convincing” standard of proof. In the Interest of Doe, 319 Ga. App. 574, 737 S.E.2d 581 (2013).

15-11-112. (Effective until January 1, 2014) Notice of abortion on unemancipated minor.

JUDICIAL DECISIONS

Cited in In the Interest of Doe, 319 Ga. App. 574, 737 S.E.2d 581 (2013).

15-11-114. (Effective until January 1, 2014) Conduct of hearing; appeal.

JUDICIAL DECISIONS

Time requirement. — Although a hearing was conducted on a Friday, O.C.G.A. § 15-11-114 includes no provision allowing the court to delay the court’s ruling on the petition beyond 24 hours in order to accommodate an intervening weekend or holiday. The statute does not use vague language to describe the applicable time period, such as “one day” or “by the end of the next business day”; instead, the statute specifically states “within 24 hours of the conclusion of the hearing.” In the Interest of Doe, 319 Ga. App. 574, 737 S.E.2d 581 (2013).

Order not rendered within 24 hours of conclusion of hearing. — Juvenile was entitled to reversal of the denial of the juvenile’s petition for waiver of the parental notification requirement before an unemancipated minor may have an abortion because the juvenile court failed to comply with the statutory mandate that the court render a decision and provide a certified copy of the order to the minor within 24 hours of the conclusion of the hearing pursuant to O.C.G.A. § 15-11-114(d). In the Interest of Doe, 319 Ga. App. 574, 737 S.E.2d 581 (2013).

ARTICLE 5

CHILD ADVOCATE FOR THE PROTECTION OF CHILDREN

15-11-172. (Effective until January 1, 2014) Office of the Child Advocate.

(a) There is created the Office of the Child Advocate for the Protection of Children. The Governor, by executive order, shall create a nominating committee which shall consider nominees for the position of the advocate and shall make a recommendation to the Governor. Such person shall have knowledge of the child welfare system, the juvenile justice system, and the legal system and shall be qualified by training and experience to perform the duties of the office as set forth in this article.

(b) The advocate shall be appointed by the Governor from a list of at least three names submitted by the nominating committee for a term of three years and until his or her successor is appointed and qualified and may be reappointed. The salary of the advocate shall not be less than \$60,000.00 per year, shall be fixed by the Governor, and shall come from funds appropriated for the purposes of the advocate.

(c) The Office of the Child Advocate for the Protection of Children shall be assigned to the Office of Planning and Budget for administrative purposes only, as described in Code Section 50-4-3.

(d) The advocate may appoint such staff as may be deemed necessary to effectively fulfill the purposes of this article, within the limitations of the funds available for the purposes of the advocate. The duties of the staff may include the duties and powers of the advocate if performed under the direction of the advocate. The advocate and his or her staff shall receive such reimbursement for travel and other expenses as is normally allowed to state employees, from funds appropriated for the purposes of the advocate.

(e) The advocate shall have the authority to contract with experts in fields including but not limited to medicine, psychology, education, child development, juvenile justice, mental health, and child welfare as needed to support the work of the advocate, utilizing funds appropriated for the purposes of the advocate.

(f) Notwithstanding any other provision of state law, the advocate shall act independently of any state official, department, or agency in the performance of his or her duties. (Code 1981, § 15-11-172, enacted by Ga. L. 2000, p. 243, § 1; Ga. L. 2013, p. 141, § 15/HB 79.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

The 2013 amendment, effective April 24, 2013, part of an Act to revise, modern-

ize, and correct the Code, revised punctuation in subsection (e) and deleted former subsection (g), which read: “(g) The advocate or his or her designee shall be an ex officio member of the State-wide Child Abuse Prevention Panel.”

CHAPTER 11

JUVENILE CODE

(Effective January 1, 2014. See delayed effective date note at the beginning of this chapter.)

Article 1		Sec.	
General Provisions			
Sec.		15-11-22.	Agreement to mediate; procedure.
15-11-1.	Purpose of chapter.	15-11-23.	Stay of proceeding pending mediation; time limitations.
15-11-2.	Definitions.	15-11-24.	Termination of mediation.
15-11-3.	Direct calendaring.	15-11-25.	Approval of mediation agreements; exceptions.
15-11-4.	Other laws apply to chapter.	15-11-26.	Best interests of child.
15-11-5.	Computations of time.	15-11-27.	Physical and mental examinations.
15-11-6.	Computation of age.	15-11-28.	Privilege against self-incrimination.
15-11-7.	Court of inquiry.	15-11-29.	Protective orders.
15-11-8.	Court of record.	15-11-30.	Rights and duties of legal custodian.
15-11-9.	Authority to issue arrest warrants.	15-11-31.	Contempt powers; other sanctions.
15-11-10.	Exclusive original jurisdiction.	15-11-32.	Modification or vacation of orders.
15-11-11.	Concurrent jurisdiction.	15-11-33.	Transfer when disposition incorporates reunification plan and parents reside in different counties.
15-11-12.	Dual designation of children; consolidation of proceedings; time limitations.	15-11-34.	Commitment to adult correctional facility prohibited.
15-11-13.	Appointment of guardian or conservator.	15-11-35.	Appeals.
15-11-14.	Transfers from probate court.	15-11-36.	Expenses charged to county; payment by parent on court order.
15-11-15.	Transfers from superior court; custody and support.	15-11-37.	Supervision fees.
15-11-16.	Commencement of proceedings.	15-11-38.	Community based risk reduction programs.
15-11-17.	Conduct of hearings; anonymity on appeal.	15-11-39.	Risk assessments or risk and needs assessments; case plans.
15-11-18.	Subpoenas; application of Title 24.		
15-11-19.	Rights of parties to proceedings.		
15-11-20.	Referral for mediation.		
15-11-21.	Selection and appointment of mediator.		

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 15-11-40. Information sharing; confidentiality.
 15-11-41. Compliance with privacy laws.

Article 2

Juvenile Court Administration

- 15-11-50. Creation of juvenile courts; appointment of judges.
 15-11-51. Qualification of judges.
 15-11-52. Terms and compensation of judges.
 15-11-53. Practice of law by judges.
 15-11-54. Administration and expenses of juvenile courts.
 15-11-55. Applicability of local laws.
 15-11-56. Simultaneous service by judges.
 15-11-57. Commissioning of juvenile court judges; appointment of associate juvenile court judges.
 15-11-58. Council of juvenile court judges; role; director.
 15-11-59. Educational seminars.
 15-11-60. Associate juvenile court judges; qualifications.
 15-11-61. Associate juvenile court traffic judges.
 15-11-62. Pro tempore juvenile court judges.
 15-11-63. Clerks and other personnel.
 15-11-64. Collection of information by juvenile court clerks.
 15-11-65. Training requirements for juvenile court clerks.
 15-11-66. Appointment and salaries of probation and intake officers.
 15-11-67. Duties of probation officers.
 15-11-68. Duties of juvenile court intake officers.
 15-11-69. Transfer of probation and intake services and employees to Department of Juvenile Justice.

Article 3

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- 15-11-100. Purpose of article.
 15-11-101. Medical and psychological

Sec.

- evaluation orders when investigating child abuse and neglect.
 15-11-102. Dependency case time limitations.
 15-11-103. Right to attorney.
 15-11-104. Appointment and removal of guardian ad litem; use of a CASA.
 15-11-105. Powers and duties of guardian ad litem.
 15-11-106. Participation of a CASA.
 15-11-107. Treatment by spiritual means; life-threatening condition or disability exception.
 15-11-108. Notice of postadjudication hearings to parties.
 15-11-109. Notice of hearings to specified nonparties.
 15-11-110. Continuance of a hearing in dependency proceedings.
 15-11-111. Court orders.
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 15-11-131. Temporary protective custody of child by physician without court order and without parental consent; immunity.
 15-11-132. Verbal custody order.
 15-11-133. Removal of child from the home; protective custody.
 15-11-134. Required findings justifying removal from the home.
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15-11-146. Preliminary protective hearing; findings.
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15-11-151. Time limitations for filing petition.
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- PREADJUDICATION PROCEDURES
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- ADJUDICATION
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- PREDISPOSITION SOCIAL STUDIES
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15-11-201. DFCS case plan; contents.
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15-11-261. Scope, effect, and duration of order terminating parental rights.
15-11-262. Right to attorney and appointment of guardian ad litem.

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 15-11-263. Physical and mental examinations.
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 15-11-321. Custody of child following termination proceedings or surrender of parental rights.

- Sec.
 15-11-322. Continuing court review when child not adopted.
 15-11-323. Reinstatement of parental rights; standard of proof.

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 15-11-401. Child in need of services; venue.
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- 15-11-472. Delinquency case time limitations.
- 15-11-473. Conduct of delinquency proceeding by prosecuting attorney; access to information.
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Delayed effective date. — Ga. L. 2013, p. 294, § 1/HB 242, revised Chapter 11 of Title 15, effective January 1, 2014. For the version of Chapter 11 effective until January 1, 2014, consult the bound volume and the Code sections set out in the preceding version of Chapter 11 in this supplement. For the version effective January 1, 2014, see this version of Chapter 11.

Editor's notes. — Ga. L. 2013, p. 294, § 5-1/HB 242, not codified by the General Assembly, provides that: "This Act shall become effective on January 1, 2014, and shall apply to all offenses which occur and juvenile proceedings commenced on and after such date. Any offense occurring before January 1, 2014, shall be governed by the statute in effect at the time of such offense and shall be considered a prior adjudication for the purpose of imposing a disposition that provides for a different penalty for subsequent adjudications, of whatever class, pursuant to this Act. The enactment of this Act shall not affect any prosecutions for acts occurring before January 1, 2014, and shall not act as an abatement of any such prosecutions."

Ga. L. 2013, p. 294, § 1/HB 242, effective January 1, 2014, repealed the Code sections formerly codified at this chapter and enacted the current chapter. The former chapter consisted of Code Sections 15-11-1 through 15-11-3, 15-11-3.1, 15-11-4, 15-11-4.1, 15-11-5, 15-11-5.1, 15-11-6 through 15-11-9, 15-11-9.1, 15-11-10 through 15-11-17, 15-11-17.1 (Part 1 of Article 1); 15-11-18, 15-11-18.1, 15-11-19 through 15-11-24, 15-11-24.1, 15-11-24.2, 15-11-24.3, 15-11-25 through 15-11-27 (Part 2 of Article 1); 15-11-28 through 15-11-30, 15-11-30.1 through 15-11-30.5, 15-11-31 through 15-11-34 (Part 3 of Article 1); 15-11-35, 15-11-35.1,

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Former Code Sections to New Code Sections

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15-11-45(a)(3), (a)(5)	15-11-410	15-11-55(d)	15-11-215
15-11-46	15-11-415,	15-11-55.1	15-11-109
	15-11-503	15-11-56(a)	15-11-210
15-11-46.1	15-11-415	15-11-56(b)	15-11-110
15-11-46.1(a), (c)-(e)	15-11-503	15-11-57	15-11-212

Former Provisions	New Chapter 11	Former Provisions	New Chapter 11
15-11-58(a)	15-11-2, 15-11-134	15-11-73	15-11-630
15-11-58(a)(1), (2), (3), (6)	15-11-202	<u>Part 7A</u>	
15-11-58(a)(3), (a)(4), (a)(5)	15-11-203	15-11-75(a)-(c), (h)	15-11-541
15-11-58(b)-(d), (f)	15-11-200	15-11-75(c)	15-11-544
15-11-58(c)	15-11-201	15-11-75(d)	15-11-543
15-11-58(e), (g), (h), (i)(1), (j)	15-11-204	15-11-75(e)	15-11-542
15-11-58(k)	15-11-113, 15-11-214, 15-11-216, 15-11-217	15-11-75(f)	15-11-546
15-11-58(l)	15-11-217, 15-11-218	15-11-75(g)	15-11-545
15-11-58(m)	15-11-233	<u>Part 8</u>	
15-11-58(o)(1), (o)(4)	15-11-230	15-11-78	15-11-700
15-11-58(o)(2), (o)(6)	15-11-231	15-11-79	15-11-704
15-11-58(o)(5)-(7)	15-11-232	15-11-79.1	15-11-703
15-11-58(p)	15-11-109, 15-11-111	15-11-79.2	15-11-701
15-11-58.1	15-11-214	15-11-80	15-11-707
<u>Part 7</u>		15-11-81	15-11-709
15-11-62	None	15-11-82(a)-(d), (f)	15-11-708
15-11-63(a)	15-11-2	15-11-83	15-11-702
15-11-63(a)(3)	15-11-471	15-11-84	15-11-710
15-11-63(b)-(h)	15-11-602	<u>Part 9</u>	
15-11-63(h)	15-11-707	15-11-87	None
15-11-64	15-11-405	15-11-88	None
15-11-64.1	15-11-473, 15-11-540	15-11-89	None
15-11-64.2	15-11-481	15-11-89.1	None
15-11-65(a)	15-11-400, 15-11-440, 15-11-581, 15-11-582, 15-11-600	15-11-90	None
15-11-65(b)	15-11-600	<u>Article 2</u>	
15-11-65(c)	15-11-478	15-11-93	15-11-261
15-11-66	15-11-601	15-11-94(a), (b)(1)-(3), (b)(4)(A), (b)(5)	15-11-310
15-11-66(b)(2)(B)	15-11-604	15-11-94(a), (c)	15-11-320
15-11-66.1(a)	15-11-471	15-11-94(b)(4)(B), (b)(4)(C)	15-11-311
15-11-66.1(b)-(e)	15-11-603	15-11-95	15-11-280
15-11-67	15-11-442	15-11-96(a)-(c)	15-11-281
15-11-68	15-11-601	15-11-96(b), (c)	15-11-282
15-11-69	15-11-515	15-11-96(d), (e), (f)-(i)	15-11-283
15-11-70	15-11-607	15-11-97	15-11-285
15-11-70(a), (d), (e)	15-11-443	15-11-98	15-11-262
15-11-71	15-11-37	15-11-99	15-11-303
15-11-72	15-11-606	15-11-100	15-11-263
		15-11-101	15-11-302
		15-11-102	None
		15-11-103(a), (b), (d)	15-11-321
		15-11-103(c)	15-11-320
		15-11-103(e)	15-11-322
		15-11-104	15-11-300
		15-11-105	15-11-260
		15-11-106	15-11-301

Former Provisions	New Chapter 11	Former Provisions 15-11-155(d)	New Chapter 11 15-11-658
<u>Article 3</u>		<u>Article 5</u>	
15-11-110	15-11-680	15-11-170	15-11-740
15-11-111	15-11-681	15-11-171	15-11-741
15-11-112	15-11-682	15-11-172	15-11-742
15-11-113	15-11-683	15-11-173	15-11-743
15-11-114	15-11-684	15-11-174	15-11-744
15-11-115	15-11-685	15-11-175	15-11-745
15-11-116	15-11-686	15-11-176	15-11-746
15-11-117	15-11-687	15-11-177	15-11-747
15-11-118	15-11-688		
<u>Article 4</u>		<u>Article 6</u>	
15-11-149	15-11-658	15-11-200	15-11-2
15-11-150(a)	15-11-650	15-11-201	15-11-720
15-11-151	15-11-2, 15-11-651	15-11-202	15-11-721
15-11-152(a)	15-11-652	15-11-203	15-11-722
15-11-152(b)-(g)	15-11-653	15-11-204	15-11-723
15-11-153(a)-(e), (h)	15-11-655	15-11-205(a), (c), (d), (e)	15-11-725
15-11-153(g)	15-11-656	15-11-205(b)	15-11-724
15-11-153.1	15-11-656	15-11-206	15-11-726
15-11-153.2	15-11-654	15-11-207	15-11-727
15-11-154	15-11-450, 15-11-658	15-11-208	15-11-728
15-11-155(a)-(f), (j)	15-11-451		

New Code Sections to Former Code Sections

This table lists each Code section of Title 15, Chapter 11, effective on January 1, 2014 and comparable provisions in the version of Title 15, Chapter 11, effective until January 1, 2014.

New Chapter 11	Former Provisions	New Chapter 11	Former Provisions
<u>Article 1</u>		15-11-36	15-11-8
15-11-1	15-11-1	15-11-37	15-11-71
15-11-2	15-11-2; 15-11-9; 15-11-9.1(a); 15-11-10(a); 15-11-24.3; 15-11-30.3; 15-11-58(a); 15-11-63(a); 15-11-151; 15-11-200	15-11-38	15-11-10(b), (e)
		15-11-39	15-11-10(c)
		15-11-40	15-11-10(d)
		15-11-41	None
		<u>Article 2</u>	
		15-11-50	15-11-18(a), (b), (c), (d)(3), (f), (h)
15-11-3	None	15-11-51	15-11-18(e)
15-11-4	None	15-11-52	15-11-18(d)(1), (d)(2)
15-11-5	None	15-11-53	15-11-18(g)
15-11-6	None	15-11-54	15-11-18(i)
15-11-7	15-11-4(a)	15-11-55	15-11-18(j)
15-11-8	15-11-4(b)	15-11-56	15-11-18(k)
15-11-9	15-11-4(c)	15-11-57	15-11-18.1
15-11-10	15-11-28(a)	15-11-58	15-11-19
15-11-11	15-11-28(c), (e)	15-11-59	15-11-20
15-11-12	None	15-11-60	15-11-21(a), (b)
15-11-13	15-11-30.1(a)(1)	15-11-61	15-11-22(a)
15-11-14	None	15-11-62	15-11-23
15-11-15	15-11-30.1(b)	15-11-63	15-11-24
15-11-16	15-11-35	15-11-64	None
15-11-17	15-11-29; 15-11-41(a), (b)	15-11-65	15-11-25
		15-11-66	15-11-24.1
15-11-18	15-11-36	15-11-67	15-11-24.2
15-11-19	15-11-7(a)	15-11-68	None
15-11-20	None	15-11-69	15-11-24.3
15-11-21	None	<u>Article 3</u>	
15-11-22	None	<u>Part 1</u>	
15-11-23	None	15-11-100	None
15-11-24	None	15-11-101	15-11-12(b)
15-11-25	None	15-11-102	15-11-49(b), (e)
15-11-26	None	15-11-103	15-11-6(b)
15-11-27	15-11-12(b)	15-11-104	15-11-9(b); 15-11-9.1(j)(1)
15-11-28	15-11-7(b)		15-11-9.1(d), (f), (g), (h)
15-11-29	15-11-11	15-11-105	15-11-9.1(b), (c), (j)
15-11-30	15-11-13		15-11-2(8)
15-11-31	15-11-5	15-11-106	None
15-11-32	15-11-40	15-11-107	15-11-55.1;
15-11-33	15-11-30.5	15-11-108	15-11-58(p)
15-11-34	15-11-50	15-11-109	
15-11-35	15-11-3		

New Chapter 11	Former Provisions	New Chapter 11	Former Provisions
15-11-110	15-11-56(b)	15-11-204	15-11-58(e), (g), (h), (i)(1), (j)
15-11-111	15-11-58(p)		
15-11-112	None		
15-11-113	15-11-58(k)	<u>Part 11</u>	
		15-11-210	15-11-56(a)
<u>Part 2</u>		15-11-211	15-11-55(a)(2)(B)-(D)
15-11-125	15-11-29(a)	15-11-212	15-11-28(c)(2); 15-11-55(a)(1), (a)(2)(A), (a)(3), (b), (c), (e), (f); 15-11-57
<u>Part 3</u>			None
15-11-130	15-11-14		15-11-58(k); 15-11-58.1
15-11-131	15-11-15	15-11-213	15-11-55(d)
15-11-132	None	15-11-214	15-11-58(k)
15-11-133	15-11-45; 15-11-47(a); 15-11-49(a)	15-11-215	15-11-58(k), (l)
15-11-134	15-11-58(a)	15-11-216	15-11-58(l)
15-11-135	15-11-48(e)	15-11-217	
		15-11-218	
<u>Part 4</u>		<u>Part 12</u>	
15-11-145	15-11-49(c)(3), (c)(4), (d), (e)	15-11-230	15-11-58(o)(1), (o)(4)
15-11-146	None	15-11-231	15-11-58(o)(2), (o)(6), 15-11-58(o)(5)-(7)
		15-11-232	15-11-58(m)
		15-11-233	
<u>Part 5</u>		<u>Part 13</u>	
15-11-150	15-11-38	15-11-240	15-11-30.1(a)(2)(A), (a)(2)(B)
15-11-151	15-11-49(e)		15-11-30.1(a)(2)(F)
15-11-152	15-11-38.1	15-11-241	15-11-30.1(a)(2)(C), (a)(2)(G)
15-11-153	None	15-11-242	15-11-30.1(a)(2)(E)
			15-11-30.1(a)(2)(D)
<u>Part 6</u>		<u>Article 4</u>	
15-11-160	15-11-39(b)-(e)	<u>Part 1</u>	
15-11-161	15-11-39.1	15-11-260	15-11-105
15-11-162	15-11-39(c)	15-11-261	15-11-93
15-11-163	15-11-39.2	15-11-262	15-11-98
		15-11-263	15-11-100
		15-11-264	None
		15-11-265	None
<u>Part 7</u>			
15-11-170	None		
<u>Part 8</u>		<u>Part 2</u>	
15-11-180	15-11-54(c)	15-11-270	15-11-29(a)
15-11-181	15-11-39(a); 15-11-54		
<u>Part 9</u>		<u>Part 3</u>	
15-11-190	15-11-12(a)	15-11-280	15-11-38.1; 15-11-95
15-11-191	15-11-12(a)	15-11-281	15-11-39(e); 15-11-96(a)-(c)
		15-11-282	15-11-39.1;
			15-11-96(b), (c)
<u>Part 10</u>		15-11-283	15-11-96(d), (e), (f)-(i)
15-11-200	15-11-58(b)-(d), (f)		
15-11-201	15-11-58(c)		
15-11-202	15-11-58(a)(1), (2), (3), (6)		
15-11-203	15-11-58(a)(3), (a)(4), (a)(5)		

New Chapter 11	Former Provisions	New Chapter 11	Former Provisions
15-11-284	None	15-11-415	15-11-46; 15-11-46.1
15-11-285	15-11-97		
		<u>Part 5</u>	
<u>Part 4</u>		15-11-420	15-11-37; 15-11-38
15-11-300	15-11-104	15-11-421	15-11-39(a)
15-11-301	15-11-106	15-11-422	15-11-38.1
15-11-302	15-11-101	15-11-423	15-11-39(b), (d), (e)
15-11-303	15-11-99	15-11-424	15-11-39.1
		15-11-425	15-11-39(c)
<u>Part 5</u>		<u>Part 6</u>	
15-11-310	15-11-94(a), (b)(1)-(3), (b)(4)(A), (b)(5)	15-11-440	15-11-65(a)
15-11-311	15-11-94(b)(4)(B), (b)(4)(C)	15-11-441	15-11-39(a)
		15-11-442	15-11-67
<u>Part 6</u>		15-11-443	15-11-70(a), (d), (e)
15-11-320	15-11-94(a), (c); 15-11-103(c)	15-11-444	15-11-40(b)
15-11-321	15-11-103(a), (b), (d)	15-11-445	None
15-11-322	15-11-103(e)	<u>Part 7</u>	
15-11-323	None	15-11-450	15-11-154
		15-11-451	15-11-155(a)-(f), (j)
<u>Article 5</u>		<u>Article 6</u>	
<u>Part 1</u>		<u>Part 1</u>	
15-11-380	None	15-11-470	None
15-11-381	15-11-2	15-11-471	15-11-2;
			15-11-40.1(a);
<u>Part 2</u>			15-11-63(a)(3);
15-11-390	15-11-38; 15-11-38.1		15-11-66.1(a)
		15-11-472	15-11-49(b), (c)
<u>Part 3</u>		15-11-473	15-11-64.1
15-11-400	15-11-39(a); 15-11-39.1; 15-11-48(e); 15-11-49(b), (c)(2); 15-11-65(a)	15-11-474	None
		15-11-475	15-11-6(b)
15-11-401	15-11-29(a); 15-11-30(b), (d)	15-11-476	15-11-9(b)
		15-11-477	None
15-11-402	15-11-6(b); 15-11-9(b)	15-11-478	15-11-65(c)
15-11-403	None	15-11-479	None
15-11-404	None	15-11-480	None
15-11-405	15-11-64	15-11-481	15-11-64.2
		<u>Part 2</u>	
<u>Part 4</u>		15-11-490	15-11-29(a); 15-11-30(b), (c), (d)
15-11-410	15-11-45(a)(3), (a)(5); 15-11-47(a)(2); 15-11-49.1	<u>Part 3</u>	
		15-11-500	15-11-49.1
15-11-411	15-11-47(e)	15-11-501	15-11-45(a)(1)-(3), (c); 15-11-47(c)
15-11-412	15-11-47(e)(1); 15-11-48(e)	15-11-502	15-11-47(a)
		15-11-503	15-11-46;
15-11-413	15-11-49(c)(2), (c)(4)		15-11-46.1(a), (c)-(e)
15-11-414	15-11-49(c)(2)	15-11-504	15-11-48

New Chapter 11	Former Provisions	New Chapter 11	Former Provisions
15-11-505	15-11-49(a)	15-11-600	15-11-65(a), (b)
15-11-506	15-11-49	15-11-601	15-11-66; 15-11-68
15-11-507	15-11-47(d)	15-11-602	15-11-63(b)-(h)
15-11-508	15-11-51	15-11-603	15-11-66.1(b)-(e)
		15-11-604	15-11-66(b)(2)(B)
<u>Part 4</u>		15-11-605	15-11-40.1(b)-(h)
15-11-510	15-11-49(b)	15-11-606	15-11-72
15-11-511	None	15-11-607	15-11-70
		15-11-608	15-11-40(b)
<u>Part 5</u>		<u>Part 13</u>	
15-11-515	15-11-69	15-11-620	None
<u>Part 6</u>		15-11-621	None
15-11-520	15-11-38	15-11-622	None
15-11-521	15-11-49(b), (e)		
15-11-522	15-11-38.1	<u>Part 14</u>	
15-11-523	None	15-11-630	15-11-73
<u>Part 7</u>		<u>Article 7</u>	
15-11-530	15-11-39(b), (d)	15-11-650	15-11-150(a)
15-11-531	15-11-39.1	15-11-651	15-11-151
15-11-532	15-11-39(c)	15-11-652	15-11-152(a)
		15-11-653	15-11-152(b)-(g)
<u>Part 8</u>		15-11-654	15-11-153.2
15-11-540	15-11-64.1	15-11-655	15-11-153(a)-(e), (h)
15-11-541	15-11-75(a)-(c), (h)	15-11-656	15-11-153(g);
15-11-542	15-11-75(e)		15-11-153.1
15-11-543	15-11-75(d)	15-11-657	None
15-11-544	15-11-75(c)	15-11-658	15-11-149; 15-11-154;
15-11-545	15-11-75(g)		15-11-155(d)
15-11-546	15-11-75(f)	15-11-659	None
		15-11-660	None
<u>Part 9</u>		<u>Article 8</u>	
15-11-560	15-11-28(b)	15-11-680	15-11-110
15-11-561	15-11-30.2	15-11-681	15-11-111
15-11-562	None	15-11-682	15-11-112
15-11-563	15-11-30.2(e)	15-11-683	15-11-113
15-11-564	None	15-11-684	15-11-114
15-11-565	15-11-48(b), (c)	15-11-685	15-11-115
15-11-566	15-11-30.2(c)	15-11-686	15-11-116
15-11-567	15-11-30.4	15-11-687	15-11-117
		15-11-688	15-11-118
<u>Part 10</u>		<u>Article 9</u>	
15-11-580	None	15-11-700	15-11-78
15-11-581	15-11-65(a)	15-11-701	15-11-79.2
15-11-582	15-11-39(a);	15-11-702	15-11-83
	15-11-65(a)	15-11-703	15-11-79.1
<u>Part 11</u>		15-11-704	15-11-79
15-11-590	15-11-12(a)	15-11-705	None
<u>Part 12</u>			

New Chapter 11	Former Provisions	New Chapter 11	Former Provisions
15-11-706	None	15-11-726	15-11-206
15-11-707	15-11-63(h); 15-11-80	15-11-727	15-11-207
15-11-708	15-11-82(a)-(d), (f)	15-11-728	15-11-208
15-11-709	15-11-81		
15-11-710	15-11-84	<u>Article 11</u>	
		15-11-740	15-11-170
<u>Article 10</u>		15-11-741	15-11-171
15-11-720	15-11-201	15-11-742	15-11-172
15-11-721	15-11-202	15-11-743	15-11-173
15-11-722	15-11-203	15-11-744	15-11-174
15-11-723	15-11-204	15-11-745	15-11-175
15-11-724	15-11-205(b)	15-11-746	15-11-176
15-11-725	15-11-205(a), (c), (d), (e)	15-11-747	15-11-177

ARTICLE 1

GENERAL PROVISIONS

15-11-1. (Effective January 1, 2014) Purpose of chapter.

The purpose of this chapter is to secure for each child who comes within the jurisdiction of the juvenile court such care and guidance, preferably in his or her own home, as will secure his or her moral, emotional, mental, and physical welfare as well as the safety of both the child and community. It is the intent of the General Assembly to promote a juvenile justice system that will protect the community, impose accountability for violations of law, provide treatment and rehabilitation, and equip juvenile offenders with the ability to live responsibly and productively. It is the intent of the General Assembly to preserve and strengthen family relationships, countenancing the removal of a child from his or her home only when state intervention is essential to protect such child and enable him or her to live in security and stability. In every proceeding, this chapter seeks to guarantee due process of law, as required by the Constitutions of the United States and the State of Georgia, through which every child and his or her parent and all other interested parties are assured fair hearings at which legal rights are recognized and enforced. Above all, this chapter shall be liberally construed to reflect that the paramount child welfare policy of this state is to determine and ensure the best interests of its children. (Code 1981, § 15-11-1, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

Cross references. — Programs and protection for children and youth, T. 49, C. 5.

15-11-2. (Effective January 1, 2014) Definitions.

As used in this chapter, the term:

(1) “Abandonment” or “abandoned” means any conduct on the part of a parent, guardian, or legal custodian showing an intent to forgo parental duties or relinquish parental claims. Intent to forgo parental duties or relinquish parental claims may be evidenced by:

(A) Failure, for a period of at least six months, to communicate meaningfully with a child;

(B) Failure, for a period of at least six months, to maintain regular visitation with a child;

(C) Leaving a child with another person without provision for his or her support for a period of at least six months;

(D) Failure, for a period of at least six months, to participate in any court ordered plan or program designed to reunite a child’s parent, guardian, or legal custodian with his or her child;

(E) Leaving a child without affording means of identifying such child or his or her parent, guardian, or legal custodian and:

(i) The identity of such child’s parent, guardian, or legal custodian cannot be ascertained despite diligent searching; and

(ii) A parent, guardian, or legal custodian has not come forward to claim such child within three months following the finding of such child;

(F) Being absent from the home of his or her child for a period of time that creates a substantial risk of serious harm to a child left in the home;

(G) Failure to respond, for a period of at least six months, to notice of child protective proceedings; or

(H) Any other conduct indicating an intent to forgo parental duties or relinquish parental claims.

(2) “Abuse” means:

(A) Any nonaccidental physical injury or physical injury which is inconsistent with the explanation given for it suffered by a child as the result of the acts or omissions of a person responsible for the care of a child;

(B) Emotional abuse;

(C) Sexual abuse or sexual exploitation;

(D) Prenatal abuse; or

(E) The commission of an act of family violence as defined in Code Section 19-13-1 in the presence of a child. An act includes a single act, multiple acts, or a continuing course of conduct. As used in this subparagraph, the term “presence” means physically present or able to see or hear.

(3) “Adult” means any individual who is not a child as defined in paragraph (10) of this Code section.

(4) “Affiliate court appointed special advocate program” means a locally operated program operating with the approval of the local juvenile court which screens, trains, and supervises volunteers to advocate for the best interests of an abused or neglected child in dependency proceedings.

(5) “Aggravated circumstances” means the parent has:

(A) Abandoned an infant;

(B) Attempted, conspired to attempt, or has subjected a child or his or her sibling to death or great bodily harm;

(C) Attempted, conspired to attempt, or has subjected a child or his or her sibling to torture, chronic abuse, sexual abuse, or sexual exploitation; or

(D) Committed the murder or voluntary manslaughter of his or her child’s other parent or has been convicted of aiding or abetting, attempting, or soliciting the murder or voluntary manslaughter of his or her child’s other parent.

(6) “Biological father” means the male who impregnated the biological mother resulting in the birth of a child.

(7) “Business day” means Mondays through Fridays and shall not include weekends or legal holidays.

(8) “Caregiver” means any person providing a residence for a child or any person legally obligated to provide or secure adequate care for a child, including his or her parent, guardian, or legal custodian.

(9) “Case plan” means a plan which is designed to ensure that a child receives protection, proper care, and case management and may include services for a child, his or her parent, guardian, or legal custodian, and other caregivers.

(10) “Child” means any individual who is:

(A) Under the age of 18 years;

(B) Under the age of 17 years when alleged to have committed a delinquent act;

(C) Under the age of 22 years and in the care of DFCS;

(D) Under the age of 23 years and eligible for and receiving independent living services through DFCS; or

(E) Under the age of 21 years who committed an act of delinquency before reaching the age of 17 years and who has been placed under the supervision of the court or on probation to the court for the purpose of enforcing orders of the court.

(11) “Child in need of services” means:

(A) A child adjudicated to be in need of care, guidance, counseling, structure, supervision, treatment, or rehabilitation and who is adjudicated to be:

(i) Subject to compulsory school attendance and who is habitually and without good and sufficient cause truant, as such term is defined in Code Section 15-11-381, from school;

(ii) Habitually disobedient of the reasonable and lawful commands of his or her parent, guardian, or legal custodian and is ungovernable or places himself or herself or others in unsafe circumstances;

(iii) A runaway, as such term is defined in Code Section 15-11-381;

(iv) A child who has committed an offense applicable only to a child;

(v) A child who wanders or loiters about the streets of any city or in or about any highway or any public place between the hours of 12:00 Midnight and 5:00 A.M.;

(vi) A child who disobeys the terms of supervision contained in a court order which has been directed to such child who has been adjudicated a child in need of services; or

(vii) A child who patronizes any bar where alcoholic beverages are being sold, unaccompanied by his or her parent, guardian, or legal custodian, or who possesses alcoholic beverages; or

(B) A child who has committed a delinquent act and is adjudicated to be in need of supervision but not in need of treatment or rehabilitation.

(12) “Class A designated felony act” means a delinquent act committed by a child 13 years of age or older which, if committed by an adult, would be one or more of the following crimes:

(A) Aggravated assault in violation of paragraph (1) or (3) of subsection (a) or subsection (c), (d), (e), (i), or (l) of Code Section

16-5-21 or assault with a deadly weapon or with any object, device, or instrument which, when used offensively against a person, actually does result in serious bodily injury;

- (B) Aggravated battery;
- (C) Armed robbery not involving a firearm;
- (D) Arson in the first degree;
- (E) Attempted murder;

(F) Escape in violation of Code Section 16-10-52, if such child has previously been adjudicated to have committed a class A designated felony act or class B designated felony act;

- (G) Hijacking a motor vehicle;
- (H) Kidnapping;

(I) Participating in criminal gang activity, as defined in subparagraphs (A) through (G) and (J) of paragraph (1) of Code Section 16-15-3, in violation of Code Section 16-15-4;

(J) Trafficking of substances in violation of Code Section 16-13-31 or 16-13-31.1;

(K) Any other act which, if committed by an adult, would be a felony in violation of Chapter 5 or 6 of Title 16, if such child has three times previously been adjudicated for delinquent acts all of which, if committed by an adult, would have been felonies in violation of any chapter of Title 16, provided that the prior adjudications of delinquency shall not have arisen out of the same transaction or occurrence or series of events related in time and location; or

(L) Any other act which, if committed by an adult, would be a felony, if such child has three times previously been adjudicated for delinquent acts all of which, if committed by an adult, would have been felonies in violation of any chapter of Title 16 and one of which, if committed by an adult, would have been a felony in violation of Chapter 5 or 6 of Title 16, provided that the prior adjudications of delinquency shall not have arisen out of the same transaction or occurrence or series of events related in time and location.

(13) "Class B designated felony act" means a delinquent act committed by a child 13 years of age or older which, if committed by an adult, would be one or more of the following crimes:

(A) Aggravated assault in violation of subsection (f), (g), or (j) of Code Section 16-5-21 or assault with a deadly weapon or with any

object, device, or instrument which, when used offensively against a person, would be likely to result in serious bodily injury but which did not result in serious bodily injury;

(B) Arson in the second degree;

(C) Attempted kidnapping;

(D) Battery in violation of Code Section 16-5-23.1, if the victim is a teacher or other school personnel;

(E) Racketeering in violation of Code Section 16-14-4;

(F) Robbery;

(G) Participating in criminal gang activity, as defined in subparagraph (H) of paragraph (1) of Code Section 16-15-3, in violation of Code Section 16-15-4;

(H) Smash and grab burglary;

(I) Possessing, manufacturing, transporting, distributing, possessing with the intent to distribute, or offering to distribute a destructive device in violation of Code Section 16-7-82;

(J) Distributing certain materials to persons under the age of 21 in violation of Code Section 16-7-84;

(K) Any subsequent violation of Code Sections 16-8-2 through 16-8-5 or 16-8-5.2 through 16-8-9, if the property which was the subject of the theft was a motor vehicle and such child has had one or more separate, prior adjudications of delinquency based upon a violation of Code Sections 16-8-2 through 16-8-5 or 16-8-5.2 through 16-8-9, provided that the prior adjudications of delinquency shall not have arisen out of the same transaction or occurrence or series of events related in time and location;

(L) Any subsequent violation of Code Section 16-7-85 or 16-7-87, if such child has had one or more separate, prior adjudications of delinquency based upon a violation of Code Section 16-7-85 or 16-7-87, provided that the prior adjudications of delinquency shall not have arisen out of the same transaction or occurrence or series of events related in time and location;

(M) Any subsequent violation of subsection (b) of Code Section 16-11-132, if such child has had one or more separate, prior adjudications of delinquency based upon a violation of subsection (b) of Code Section 16-11-132, provided that the prior adjudications of delinquency shall not have arisen out of the same transaction or occurrence or series of events related in time and location;

(N) An act which constitutes a second or subsequent adjudication of delinquency based on a violation of Code Section 16-11-127.1 or which is a first violation of Code Section 16-11-127.1 involving:

(i) A firearm, as defined in paragraph (2) of subsection (a) of Code Section 16-11-131;

(ii) A dangerous weapon or machine gun, as defined in Code Section 16-11-121; or

(iii) Any weapon, as defined in Code Section 16-11-127.1, together with an assault; or

(O) Any other act which, if committed by an adult, would be a felony in violation of any chapter of Title 16 other than Chapter 5 or 6 of Title 16, if such child has three times previously been adjudicated for delinquent acts, all of which, if committed by an adult, would have been felonies in violation of any chapter of Title 16 other than Chapter 5 or 6 of Title 16, provided that the prior adjudications of delinquency shall not have arisen out of the same transaction or occurrence or series of events related in time and location.

(14) "Complaint" is the initial document setting out the circumstances that resulted in a child being brought before the court.

(15) "Court" means the juvenile court or the court exercising jurisdiction over juvenile matters.

(16) "Court appointed special advocate" or "CASA" means a community volunteer who:

(A) Has been screened and trained regarding child abuse and neglect, child development, and juvenile court proceedings;

(B) Has met all the requirements of an affiliate court appointed special advocate program;

(C) Is being actively supervised by an affiliate court appointed special advocate program; and

(D) Has been sworn in by a judge of the juvenile court in the court or circuit in which he or she wishes to serve.

(17) "Criminal justice purposes" means the performance of any activity directly involving:

(A) The investigation, detection, apprehension, detention, pre-trial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of children or adults who are accused of, convicted of, adjudicated of, or charged with crimes or delinquent acts; or

(B) The collection, storage, and dissemination of criminal history record information.

(18) "DBHDD" means the Department of Behavioral Health and Developmental Disabilities.

(19) “Delinquent act” means:

(A) An act committed by a child designated a crime by the laws of this state, or by the laws of another state if the act occurred in that state, under federal laws, or by local ordinance, and the act is not an offense applicable only to a child or a juvenile traffic offense;

(B) The act of disobeying the terms of supervision contained in a court order which has been directed to a child who has been adjudicated to have committed a delinquent act; or

(C) Failing to appear as required by a citation issued for an act that would be a crime if committed by an adult.

(20) “Delinquent child” means a child who has committed a delinquent act and is in need of treatment or rehabilitation.

(21) “Department” means the Department of Human Services.

(22) “Dependent child” means a child who:

(A) Has been abused or neglected and is in need of the protection of the court:

(B) Has been placed for care or adoption in violation of law; or

(C) Is without his or her parent, guardian, or legal custodian.

(23) “Detention assessment” shall have the same meaning as set forth in Code Section 49-4A-1.

(24) “Developmental disability” shall have the same meaning as set forth in Code Section 37-1-1.

(25) “Developmental level” is a child’s ability to understand and communicate, taking into account such factors as age, maturity, mental capacity, level of education, cultural background, and degree of language acquisition.

(26) “DFCS” means the Division of Family and Children Services of the department.

(27) “Diligent search” means the efforts of DFCS to identify and locate a parent whose identity or location is unknown or a relative or other person who has demonstrated an ongoing commitment to a child.

(28) “DJJ” means the Department of Juvenile Justice.

(29) “Emancipation” means termination of the rights of a parent to the custody, control, services, and earnings of a child.

(30) “Emotional abuse” means acts or omissions by a person responsible for the care of a child that cause any mental injury to

such child's intellectual or psychological capacity as evidenced by an observable and significant impairment in such child's ability to function within a child's normal range of performance and behavior or that create a substantial risk of impairment, if the impairment or substantial risk of impairment is diagnosed and confirmed by a licensed mental health professional or physician qualified to render such diagnosis.

(31) "Evaluation" means a comprehensive, individualized examination of a child by an examiner that may include the administration of one or more assessment instruments, diagnosing the type and extent of a child's behavioral health disorders and needs, if any, making specific recommendations, and assessing a child's legal competencies.

(32) "Examiner" means a licensed psychologist, psychiatrist, or clinical social worker who has expertise in child development specific to severe or chronic disability of children attributable to intellectual impairment or mental illness and has received training in forensic evaluation procedures through formal instruction, professional supervision, or both.

(33) "Fictive kin" means a person who is known to a child as a relative, but is not, in fact, related by blood or marriage to such child and with whom such child has resided or had significant contact.

(34) "Foster care" means placement in foster family homes, child care institutions, or another substitute care setting approved by the department. Such term shall exclude secure residential facilities or other facilities operated primarily for the purpose of detention of a child adjudicated for delinquent acts.

(35) "Guardian ad litem" means an individual appointed to assist the court in determining the best interests of a child.

(36) "Guardianship order" means the court judgment that establishes a permanent guardianship and enumerates a permanent guardian's rights and responsibilities concerning the care, custody, and control of a child.

(37) "Identification data" means the fingerprints, name, race, sex, date of birth, and any other unique identifiers of a child.

(38) "Indigent person" means a person who, at the time of requesting an attorney, is unable without undue financial hardship to provide for full payment of an attorney and all other necessary expenses for representation or a child who is a party to a dependency proceeding. To determine indigence in a delinquency proceeding, the court shall follow the standards set forth in Chapter 12 of Title 17.

(39) “Informal adjustment” means the disposition of case other than by formal adjudication and disposition.

(40) “Judge” means the judge of the court exercising jurisdiction over juvenile matters.

(41) “Juvenile court intake officer” means the juvenile court judge, associate juvenile court judge, court service worker, DJJ staff member serving as an intake officer, or person employed as a juvenile probation or intake officer designated by the juvenile court judge or, where there is none, the superior court judge, who is on duty for the purpose of determining whether any child taken into custody should be released or detained and, if detained, the appropriate place of detention.

(42) “Legal custodian” means:

(A) A person to whom legal custody of a child has been given by order of a court; or

(B) A public or private agency or other private organization licensed or otherwise authorized by law to receive and provide care for a child to which legal custody of such child has been given by order of a court.

(43) “Legal father” means a male who has not surrendered or had terminated his rights to a child and who:

(A) Has legally adopted a child;

(B) Was married to the biological mother of a child at the time such child was conceived or was born, unless paternity was disproved by a final order pursuant to Article 3 of Chapter 7 of Title 19;

(C) Married the legal mother of a child after such child was born and recognized such child as his own, unless paternity was disproved by a final order pursuant to Article 3 of Chapter 7 of Title 19;

(D) Has been determined to be the father of a child by a final paternity order pursuant to Article 3 of Chapter 7 of Title 19;

(E) Has legitimated a child by a final order pursuant to Code Section 19-7-22; or

(F) Has legitimated a child pursuant to Code Section 19-7-22.1.

(44) “Legal mother” means the female who is the biological or adoptive mother of a child and who has not surrendered or had terminated her rights to such child.

(45) “Mediation” means the procedure in which a mediator facilitates communication between the parties concerning the matters in

dispute and explores possible solutions to promote reconciliation, understanding, and settlement.

(46) “Mediator” means a neutral third party who attempts to focus the attention of the parties upon their needs and interests rather than upon their rights and positions and who lacks the authority to impose any particular agreement upon the parties or to recommend any particular disposition of the case to the court.

(47) “Mentally ill” means having a disorder of thought or mood which significantly impairs judgment, behavior, capacity to recognize reality, or ability to cope with the ordinary demands of life.

(48) “Neglect” means:

(A) The failure to provide proper parental care or control, subsistence, education as required by law, or other care or control necessary for a child’s physical, mental, or emotional health or morals;

(B) The failure to provide a child with adequate supervision necessary for such child’s well-being; or

(C) The abandonment of a child by his or her parent, guardian, or legal custodian.

(49) “Nonsecure residential facility” means community residential locations operated by or on behalf of DJJ and may include group homes, emergency shelters, wilderness or outdoor therapeutic programs, or other facilities that provide 24 hour care in a residential setting.

(50) “Other persons who have demonstrated an ongoing commitment to a child” includes fictive kin and other individuals, including but not limited to neighbors, teachers, scout masters, caregivers, or parents of friends of such child and with whom such child has resided or had significant contact.

(51) “Parent” means either the legal father or the legal mother of a child.

(52) “Party” means the state, a child, parent, guardian, legal custodian, or other person subject to any judicial proceeding under this chapter; provided, however, that for purposes of Article 6 of this chapter, only a child and the state shall be a party.

(53) “Permanency plan” means a specific written plan prepared by DFCS designed to ensure that a child is reunified with his or her family or ensure that such child quickly attains a substitute long-term home when return to such child’s family is not possible or is not in such child’s best interests.

(54) "Permanent placement" means:

(A) Return of the legal custody of a child to his or her parent;

(B) Placement of a child with an adoptive parent pursuant to a final order of adoption; or

(C) Placement of a child with a permanent guardian.

(55) "Person responsible for the care of a child" means:

(A) An adult member of a child's household;

(B) A person exercising supervision over a child for any part of the 24 hour day; or

(C) Any adult who, based on his or her relationship to the parent, guardian, or legal custodian or a member of a child's household, has access to such child.

(56) "Prenatal abuse" means exposure to chronic or severe use of alcohol or the unlawful use of any controlled substance, as such term is defined in Code Section 16-13-21, which results in:

(A) Symptoms of withdrawal in a newborn or the presence of a controlled substance or a metabolite thereof in a newborn's body, blood, urine, or meconium that is not the result of medical treatment; or

(B) Medically diagnosed and harmful effects in a newborn's physical appearance or functioning.

(57) "Probation and intake officer" means any probation officer and any personnel of a juvenile court to whom are delegated the duties of an intake officer under this chapter, other than a juvenile court judge, associate juvenile court judge, or court service worker.

(58) "Probation officer" means any personnel of a juvenile court or staff of DJJ to whom are delegated the duties of a probation officer under this chapter, other than a juvenile court judge or associate juvenile court judge.

(59) "Prosecuting attorney" means an attorney designated by the district attorney of the judicial circuit in which juvenile proceedings are instituted, unless otherwise provided in subsection (c) of Code Section 15-18-6.1.

(60) "Putative father registry" means the registry established and maintained pursuant to subsections (d) and (e) of Code Section 19-11-9.

(61) "Reasonable efforts" means due diligence and the provision of appropriate services.

(62) “Relative” means a person related to a child by blood, marriage, or adoption, including the spouse of any of those persons even if the marriage was terminated by death or dissolution.

(63) “Restitution” means any property, lump sum, or periodic payment ordered to be made to any victim. Restitution may also be in the form of services ordered to be performed by a child.

(64) “Restrictive custody” means in the custody of DJJ for purposes of housing in a secure residential facility or nonsecure residential facility.

(65) “Risk assessment” shall have the same meaning as set forth in Code Section 49-4A-1.

(66) “Screening” means a relatively brief process to identify a child who potentially may have mental health or substance abuse needs, through administration of a formal screening instrument, to identify a child who may warrant immediate attention or intervention or a further, more comprehensive evaluation.

(67) “Secure residential facility” means a hardware secure residential institution operated by or on behalf of DJJ and shall include a youth development center or a regional youth detention center.

(68) “Services” means assistance including but not limited to care, guidance, education, counseling, supervision, treatment, and rehabilitation or any combination thereof.

(69) “Sexual abuse” means a caregiver or other person responsible for the care of a child employing, using, persuading, inducing, enticing, or coercing any child to engage in any act which involves:

(A) Sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex;

(B) Bestiality;

(C) Masturbation;

(D) Lewd exhibition of the genitals or pubic area of any person;

(E) Flagellation or torture by or upon a person who is nude;

(F) The condition of being fettered, bound, or otherwise physically restrained on the part of a person who is nude;

(G) Physical contact in an act of apparent sexual stimulation or gratification with any person’s clothed or unclothed genitals, pubic area, or buttocks or with a female’s clothed or unclothed breasts;

(H) Defecation or urination for the purpose of sexual stimulation; or

(I) Penetration of the vagina or rectum by any object except when done as part of a recognized medical procedure by a licensed health care professional.

(70) “Sexual exploitation” means conduct by a caregiver or other person responsible for the care of a child who allows, permits, encourages, or requires a child to engage in:

(A) Prostitution, in violation of Code Section 16-6-9; or

(B) Sexually explicit conduct for the purpose of producing any visual or print medium depicting such conduct, in violation of Code Section 16-12-100.

(71) “Sibling” means a person with whom a child shares one or both parents in common by blood, adoption, or marriage, even if the marriage was terminated by death or dissolution.

(72) “Staffing” means a meeting held periodically to develop and review progress on plans for meeting the identified needs of a child.

(73) “Statutory overnight delivery” means delivery of notice as provided in Code Section 9-10-12.

(74) “Unsupervised probation” means a period of probation or community supervision prior to the termination of a child’s disposition in which:

(A) All of the conditions and limitations imposed by the court in placing such child on probation remain intact;

(B) Such child may have reduced reporting requirements; and

(C) A probation officer shall not actively supervise such child.

(75) “Visitation” means a period of access to a child by a parent, guardian, legal custodian, sibling, other relative, or any other person who has demonstrated an ongoing commitment to a child in order to maintain parental and familial involvement in a child’s life when he or she is not residing with such person.

(76) “Weekend” means Saturday or Sunday. (Code 1981, § 15-11-2, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-3. (Effective January 1, 2014) Direct calendaring.

Through direct calendaring, whenever possible, a single judge shall hear all successive cases or proceedings involving the same child or

family. (Code 1981, § 15-11-3, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-4. (Effective January 1, 2014) Other laws apply to chapter.

Where procedures are not provided in this chapter, the court shall proceed in accordance with:

- (1) Title 17 in a delinquency proceeding; and
- (2) Chapter 11 of Title 9 in all other matters. (Code 1981, § 15-11-4, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-5. (Effective January 1, 2014) Computations of time.

(a) When a period of time measured in days, weeks, months, years, or other measurements of time except hours is prescribed for the exercise of any privilege or the discharge of any duty, the first day shall not be counted but the last day shall be counted; and, if the last day falls on a weekend, the party having such privilege or duty shall have through the following business day to exercise such privilege or discharge such duty.

(b) When the last day prescribed for the exercise of any privilege or the discharge of any duty falls on a public and legal holiday as set forth in Code Section 1-4-1, the party having such privilege or duty shall have through the next business day to exercise such privilege or discharge such duty.

(c) When the period of time prescribed is less than seven days, intermediate weekends and legal holidays shall be excluded in the computation. (Code 1981, § 15-11-5, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-6. (Effective January 1, 2014) Computation of age.

(a) Except as provided in subsection (b) of this Code section, a child attains a specified age the first second past midnight on the day of the anniversary of such child's birth.

(b) A child born on February 29 attains a specified age on March 1 of any year that is not a leap year. (Code 1981, § 15-11-6, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-7. (Effective January 1, 2014) Court of inquiry.

(a) The juvenile court shall have jurisdiction to act as a court of inquiry with all the powers and rights allowed courts of inquiry in this state and to examine or investigate into the circumstances or causes of any conduct or acts of any person 17 or more years of age that may be in violation of the laws of this state whenever such person is brought before the court in the course of any proceeding instituted under this chapter. The court shall cause the person to be apprehended and brought before it upon either a writ of summons, a warrant duly issued, or by arrest.

(b) When, after hearing evidence, the court has reasonably ascertained that there is probable cause to believe that the person has committed a misdemeanor or felony as prescribed under the laws of this state, the court shall commit, bind over to the court of proper jurisdiction in this state, or discharge the person. When justice shall require, the court shall cause the person to make such bail as the court shall deem proper under the circumstances and to cause the person to appear before the court of proper jurisdiction in this state to be acted upon as provided by law. (Code 1981, § 15-11-7, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-8. (Effective January 1, 2014) Court of record.

The juvenile court is a court of record having a seal. The judge and the judge's duly appointed representatives shall each have power to administer oaths and affirmations. (Code 1981, § 15-11-8, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-9. (Effective January 1, 2014) Authority to issue arrest warrants.

The juvenile court judge, associate juvenile court judge, and judge pro tempore shall have authority to issue a warrant for the arrest of any child for an offense committed against the laws of this state, based either on personal knowledge or the information of others given under oath. (Code 1981, § 15-11-9, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-10. (Effective January 1, 2014) Exclusive original jurisdiction.

Except as provided in Code Section 15-11-560, the juvenile court shall have exclusive original jurisdiction over juvenile matters and shall be the sole court for initiating action:

(1) Concerning any child who:

(A) Is alleged to be a delinquent child;

(B) Is alleged to be a child in need of services;

(C) Is alleged to be a dependent child;

(D) Is alleged to be in need of treatment or commitment as a mentally ill or developmentally disabled child;

(E) Is alleged to have committed a juvenile traffic offense as defined in Code Section 15-11-630;

(F) Has been placed under the supervision of the court or on probation to the court; provided, however, that such jurisdiction shall be for the purpose of completing, effectuating, and enforcing such supervision or a probation begun prior to such child's seventeenth birthday;

(G) Has remained in foster care after such child's eighteenth birthday or who is receiving independent living services from DFCS after such child's eighteenth birthday; provided, however, that such jurisdiction shall be for the purpose of reviewing the status of such child and the services being provided to such child as a result of such child's independent living plan or status as a child in foster care; or

(H) Requires a comprehensive services plan in accordance with Code Section 15-11-658; or

(2) Involving any proceedings:

(A) For obtaining judicial consent to the marriage, employment, or enlistment in the armed services of any child if such consent is required by law;

(B) For permanent guardianship brought pursuant to the provisions of Article 3 of this chapter;

(C) Under Code Section 39-3-2, the Interstate Compact on Juveniles, or any comparable law, enacted or adopted in this state;

(D) For the termination of the legal parent-child relationship and the rights of the biological father who is not the legal father of the child in accordance with Article 2 of this chapter; provided, however, that such jurisdiction shall not affect the superior court's exclusive jurisdiction to terminate the legal parent-child relationship as set forth in Chapters 6 through 9 of Title 19;

(E) For emancipation brought pursuant to the provisions of Article 10 of this chapter;

(F) Under Article 8 of this chapter, relating to prior notice to a parent, guardian, or legal custodian relative to an unemancipated minor's decision to seek an abortion; or

(G) Brought by a local board of education pursuant to Code Section 20-2-766.1, relating to court orders requiring that a parent, guardian, or legal custodian attend a conference or participate in programs or treatment to improve a student's behavior. (Code 1981, § 15-11-10, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-11. (Effective January 1, 2014) Concurrent jurisdiction.

The juvenile court shall have concurrent jurisdiction to hear:

(1) Any legitimization petition filed pursuant to Code Section 19-7-22 concerning a child alleged to be dependent;

(2) Any legitimization petition transferred to the court by proper order of the superior court;

(3) The issue of custody and support when the issue is transferred by proper order of the superior court; provided, however, that if a demand for a jury trial as to support has been properly filed by either

parent, then the case shall be transferred to superior court for the jury trial; and

(4) Any petition for the establishment or termination of a temporary guardianship transferred to the court by proper order of the probate court. (Code 1981, § 15-11-11, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed

effective date note at the beginning of this chapter.

15-11-12. (Effective January 1, 2014) Dual designation of children; consolidation of proceedings; time limitations.

(a) Nothing in this chapter shall be construed to prevent a child from being adjudicated both a dependent child and a delinquent child or both a dependent child and a child in need of services if there exists a factual basis for such a finding.

(b) If a child alleged or adjudicated to be a delinquent child or a child in need of services is also alleged or adjudicated to be a dependent child, dependency proceedings may be consolidated with delinquency or child in need of services proceedings to the extent consistent with due process of law as provided in Articles 3, 6, and 7 of this chapter.

(c) The time frames and requirements of Article 3 of this chapter shall apply to cases in which a child alleged or adjudicated to be a child in need of services or a delinquent child is placed in foster care and has also been alleged or adjudicated to be a dependent child. (Code 1981, § 15-11-12, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed

effective date note at the beginning of this chapter.

15-11-13. (Effective January 1, 2014) Appointment of guardian or conservator.

The court shall have jurisdiction to appoint a guardian of the person of any child in any proceeding authorized by this chapter. Any such appointment shall be made pursuant to the same requirements of notice and hearing as are provided for appointments of guardians of the persons of any child by the probate court. In the event a conservator for a child's property needs to be appointed, the court shall refer that matter to the probate court. (Code 1981, § 15-11-13, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-14. (Effective January 1, 2014) Transfers from probate court.

(a) The court shall hold a hearing within 30 days of receipt of a case transferred from the probate court pursuant to subsection (f) of Code Section 29-2-6 or subsection (b) of Code Section 29-2-8.

(b) After notice and hearing, the court may make one of the following orders:

(1) That the temporary guardianship be established or continued if the court determines that the temporary guardianship is in the best interests of a child. The order shall thereafter be subject to modification only as provided in Code Section 15-11-32; or

(2) That the temporary guardianship be terminated if the court determines it is in the best interests of a child. A child shall be returned to his or her parent unless the court determines that there is probable cause to believe that he or she will be abused, neglected, or abandoned in the custody of his or her parent.

(c) A case shall proceed as a dependency matter pursuant to the provisions of Article 3 of this chapter if, after notice and hearing, the court determines:

(1) That it is in the best interests of a child that the temporary guardianship not be established or that the temporary guardianship be terminated but there is probable cause to believe that he or she will be abused, neglected, or abandoned if returned to his or her parent; or

(2) That it is in the best interests of a child that the temporary guardianship be continued over the parent's objection.

(d) The court may refer to DFCS for further investigation a case transferred from probate court. (Code 1981, § 15-11-14, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-15. (Effective January 1, 2014) Transfers from superior court; custody and support.

(a) In handling divorce, alimony, habeas corpus, or other cases involving the custody of a child, a superior court may transfer the

question of the determination of custody, support, or custody and support to the juvenile court either for investigation and a report back to the superior court or for investigation and determination.

(b) If the referral is for investigation and determination, then the juvenile court shall proceed to handle the matter in the same manner as though the action originated under this chapter in compliance with the order of the superior court, except that the parties shall not be entitled to obtain an appointed attorney through the juvenile court.

(c) At any time prior to the determination of any such question, the juvenile court may transfer the jurisdiction of the question back to the referring superior court. (Code 1981, § 15-11-15, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed

effective date note at the beginning of this chapter.

15-11-16. (Effective January 1, 2014) Commencement of proceedings.

(a) A proceeding under this chapter may be commenced:

(1) By an order of transfer of a case from another court as provided in Code Section 15-11-11 or 15-11-567, subsection (f) of Code Section 29-2-6, or subsection (b) of Code Section 29-2-8;

(2) By the summons, notice to appear, or other citation in a proceeding charging a juvenile traffic offense or a violation of the laws, rules, and regulations governing the Department of Natural Resources Game and Fish Division; or

(3) By the filing of a petition for legitimation under Code Section 15-11-11, or in other cases by the filing of a complaint or a petition as provided in Articles 3, 4, 6, 7, 9, and 11 of this chapter.

(b) The petition and all other documents in the proceeding shall be entitled “In the interest of _____, a child,” except upon appeal.

(c) On appeal, the anonymity of a child, and where appropriate, a victim or witness who is under the age of 18 years, shall be preserved by appropriate use of a child’s, victim’s, or witness’s initials as appropriate. (Code 1981, § 15-11-16, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed

effective date note at the beginning of this chapter.

15-11-17. (Effective January 1, 2014) Conduct of hearings; anonymity on appeal.

(a) All hearings under this chapter shall be conducted by the court without a jury. Any hearing may be adjourned from time to time within the discretion of the court.

(b) Except as otherwise provided, all hearings shall be conducted in accordance with Title 24.

(c) Proceedings shall be recorded by stenographic notes or by electronic, mechanical, or other appropriate means capable of accurately capturing a full and complete record of all words spoken during the proceedings.

(d) A juvenile court judge, an associate juvenile court judge, a judge pro tempore of the juvenile court, or any person sitting as a juvenile court judge may conduct hearings in connection with any proceeding under this chapter in any county within the judicial circuit. When a superior court judge sits as a juvenile court judge, hearings in connection with any proceeding under this chapter may be heard before such judge in any county within the judicial circuit over which the judge presides. (Code 1981, § 15-11-17, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed

effective date note at the beginning of this chapter.

15-11-18. (Effective January 1, 2014) Subpoenas; application of Title 24.

Upon application of a party, the court, or any authorized officer of the court, the clerk of the court shall issue subpoenas in accordance with the provisions of Title 24 requiring attendance and testimony of witnesses and production of evidence at any hearing under this chapter. A delinquency proceeding conducted in this state shall be considered a criminal prosecution insofar as the applicability of Article 4 of Chapter 13 of Title 24. (Code 1981, § 15-11-18, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed

effective date note at the beginning of this chapter.

15-11-19. (Effective January 1, 2014) Rights of parties to proceedings.

(a) A party has the right to be present, to be heard, to present evidence material to the proceedings, to cross-examine witnesses, to examine pertinent court files and records, and to appeal the orders of the court; provided, however, that the court shall retain the discretion to exclude a child from any part or parts of any proceeding under Article 3 of this chapter if the court determines that it is not in such child's best interests to be present. An attorney for an excluded child shall not be excluded from the proceedings.

(b) A person afforded rights under this chapter shall be advised of such rights at that person's first appearance before the court. (Code 1981, § 15-11-19, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-20. (Effective January 1, 2014) Referral for mediation.

(a) At any time during a proceeding under this chapter, the court may refer a case to mediation.

(b) When referring a case to mediation, the court shall take into consideration the guidelines from the Georgia Commission of Dispute Resolution for mediating cases involving domestic violence or family violence.

(c) A referral order shall recite that while the parties shall attend a scheduled mediation session and shall attempt to mediate in good faith, such parties shall not be required to reach an agreement.

(d) Victims in a delinquency case referred to mediation may attend and participate in such mediation, but shall not be required to do so as a condition of such case being heard by the juvenile court. (Code 1981, § 15-11-20, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

Cross references. — Georgia Court-connected Alternative Dispute Resolution Act, § 15-23-1 et seq.

15-11-21. (Effective January 1, 2014) Selection and appointment of mediator.

(a) Once an order referring a case to mediation has been signed, the court shall appoint a mediator from a list of court approved mediators

who are registered with the Georgia Office of Dispute Resolution to mediate juvenile court cases.

(b) The court shall appoint a qualified mediator within five days of signing the order referring the case to mediation. (Code 1981, § 15-11-21, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-22. (Effective January 1, 2014) Agreement to mediate; procedure.

(a) The parties shall sign and date a written agreement to mediate. The agreement to mediate shall identify the controversies between the parties, affirm the parties' intent to resolve such controversies through mediation, and specify the circumstances under which mediation may continue. The agreement to mediate shall specify the confidentiality requirements of mediation and the exceptions to confidentiality in mediation as such are set forth in the Supreme Court of Georgia Alternative Dispute Resolution Rules and appendices.

(b) A mediator shall not knowingly assist the parties in reaching an agreement which would be unenforceable for reasons such as fraud, duress, the absence of bargaining ability, unconscionability, or lack of court jurisdiction.

(c) Prior to the parties signing an agreement to mediate, the mediator shall advise the parties that each of them may obtain review by an attorney of any agreement reached as a result of the mediation.

(d) The mediator shall at all times be impartial. (Code 1981, § 15-11-22, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-23. (Effective January 1, 2014) Stay of proceeding pending mediation; time limitations.

(a) Upon issuing a referral to mediation the court may stay the proceeding.

(b) Mediation shall occur as soon as practicable and be scheduled within 30 days of the order referring the matter to mediation unless the time frame is extended by the court.

(c) The court may extend the timeline for scheduling a mediation for an additional 30 days. (Code 1981, § 15-11-23, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-24. (Effective January 1, 2014) Termination of mediation.

(a) Either party in a mediation may withdraw from or terminate further participation in mediation at any time.

(b) A mediator shall terminate mediation when:

(1) The mediator concludes that the participants are unable or unwilling to participate meaningfully in the process;

(2) The mediator concludes that a party lacks the capacity to perceive and assert his or her own interests to the degree that a fair agreement cannot be reached;

(3) The mediator concludes that an agreement is unlikely; or

(4) The mediator concludes that a party is a danger to himself or herself or others. (Code 1981, § 15-11-24, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-25. (Effective January 1, 2014) Approval of mediation agreements; exceptions.

(a) All mediation agreements shall be presented to the juvenile court judge for approval.

(b) The mediation agreement shall be made an order of the court unless, after further hearing, the court determines by clear and convincing evidence that the agreement is not in the best interests of the child. (Code 1981, § 15-11-25, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-26. (Effective January 1, 2014) Best interests of child.

Whenever a best interests determination is required, the court shall consider and evaluate all of the factors affecting the best interests of the child in the context of such child's age and developmental needs. Such factors shall include:

(1) The physical safety and welfare of such child, including food, shelter, health, and clothing;

(2) The love, affection, bonding, and emotional ties existing between such child and each parent or person available to care for such child;

(3) The love, affection, bonding, and emotional ties existing between such child and his or her siblings, half siblings, and stepsiblings and the residence of such other children;

(4) Such child's need for permanence, including such child's need for stability and continuity of relationships with his or her parent, siblings, other relatives, and any other person who has provided significant care to such child;

(5) Such child's sense of attachments, including his or her sense of security and familiarity, and continuity of affection for such child;

(6) The capacity and disposition of each parent or person available to care for such child to give him or her love, affection, and guidance and to continue the education and rearing of such child;

(7) The home environment of each parent or person available to care for such child considering the promotion of such child's nurturance and safety rather than superficial or material factors;

(8) The stability of the family unit and the presence or absence of support systems within the community to benefit such child;

(9) The mental and physical health of all individuals involved;

(10) The home, school, and community record and history of such child, as well as any health or educational special needs of such child;

(11) Such child's community ties, including church, school, and friends;

(12) Such child's background and ties, including familial, cultural, and religious;

(13) The least disruptive placement alternative for such child;

(14) The uniqueness of every family and child;

(15) The risks attendant to entering and being in substitute care;

- (16) Such child's wishes and long-term goals;
- (17) The preferences of the persons available to care for such child;
- (18) Any evidence of family violence, substance abuse, criminal history, or sexual, mental, or physical child abuse in any current, past, or considered home for such child;
- (19) Any recommendation by a court appointed custody evaluator or guardian ad litem; and
- (20) Any other factors considered by the court to be relevant and proper to its determination. (Code 1981, § 15-11-26, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-27. (Effective January 1, 2014) Physical and mental examinations.

During the pendency of any proceeding under this chapter, the court may order:

(1) A child to be examined by outside parties or private providers at a suitable place by a physician or psychologist; provided, however, that orders to perform an evaluation shall not be imposed upon any state agency or county government unless such state agency or county government has funds available for such evaluation; and

(2) Medical or surgical treatment of a child suffering from a serious physical condition or illness which, in the opinion of a licensed physician, requires prompt treatment, even if the parent, guardian, or legal custodian has not been given notice of a hearing, is not available, or without good cause informs the court of his or her refusal to consent to the treatment. (Code 1981, § 15-11-27, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-28. (Effective January 1, 2014) Privilege against self-incrimination.

(a) No admission, confession, or incriminating information obtained from a child in the course of any screening that is undertaken in conjunction with proceedings under this chapter, including but not limited to court ordered screenings, shall be admitted into evidence in any adjudication hearing in which a child is accused under this chapter.

Such admission, confession, or incriminating information may be considered by the court at disposition.

(b) No admission, confession, or incriminating information obtained from a child in the course of any assessment or evaluation, or any treatment that is undertaken in conjunction with proceedings under this chapter, including but not limited to court ordered detention or risk assessments and evaluations, shall be admitted into evidence against such child, except as rebuttal or impeachment evidence, or used as a basis for such evidence in any future adjudication hearing or criminal proceeding in which such child is accused. Such admission, confession, or incriminating information may be considered by the court at disposition. (Code 1981, § 15-11-28, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-29. (Effective January 1, 2014) Protective orders.

(a) In any proceeding under this chapter, either on application of a party or on the court's own motion, the court may make an order restraining or otherwise controlling the conduct of a person if due notice of the application or motion and the grounds therefor and an opportunity to be heard thereon have been given to the person against whom the order is directed. Such an order may require any such person:

- (1) To stay away from a person's home or a child;
- (2) To permit a parent to visit his or her child at stated periods;
- (3) To abstain from offensive conduct against a child, his or her parent, or any person to whom custody of such child is awarded;
- (4) To give proper attention to the care of his or her home;
- (5) To cooperate in good faith with an agency to which custody of a child is entrusted by the court or with an agency or association to which a child is referred by the court;
- (6) To refrain from acts of commission or omission that tend to make a home not a proper place for a child;
- (7) To ensure that a child attends school pursuant to any valid law relating to compulsory attendance;
- (8) To participate with a child in any counseling or treatment deemed necessary after consideration of employment and other family needs; and

(9) To enter into and complete successfully a substance abuse program approved by the court.

(b) After notice and opportunity for hearing afforded to a person subject to a protective order, a protective order may be modified or extended for a further specified period, or both, or may be terminated if the court finds that the best interests of the child and the public will be served thereby.

(c) Protective orders may be enforced by citation to show cause for contempt of court by reason of any violation thereof and, where protection of the welfare of a child so requires, by the issuance of a warrant to take the alleged violator into custody and bring him or her before the court. (Code 1981, § 15-11-29, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-30. (Effective January 1, 2014) Rights and duties of legal custodian.

A legal custodian has the right to physical custody of a child, the right to determine the nature of the care and treatment of such child, including ordinary medical care, and the right and duty to provide for the care, protection, training, and education and the physical, mental, and moral welfare of such child, subject to the conditions and limitations of the order and to the remaining rights and duties of such child's parent or guardian. (Code 1981, § 15-11-30, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-31. (Effective January 1, 2014) Contempt powers; other sanctions.

(a) In addition to all other inherent powers of the court to enforce its lawful orders, the court may punish an adult for contempt of court by imprisonment for not more than 20 days or a fine not to exceed \$1,000.00 for willfully disobeying an order of the court or for obstructing or interfering with the proceedings of the court or the enforcement of its orders.

(b) The court shall restrict and limit the use of contempt powers with respect to commitment of a child to a secure residential facility or nonsecure residential facility and in no event shall a child solely alleged

or adjudicated to be a dependent child be placed in a secure residential facility or nonsecure residential facility.

(c) A child may be placed in a secure residential facility or nonsecure residential facility for not more than 72 hours if:

(1) He or she is found in contempt of court; and

(2) Less restrictive alternatives have been considered and are unavailable or inappropriate or if such child has already been ordered to serve a less restrictive alternative sanction but failed to comply with the sanction.

(d) In addition or as an alternative to the punishment provided in subsection (a) of this Code section, after notice and opportunity to be heard, the court may impose any or all of the following sanctions when a parent, guardian, or legal custodian other than DJJ or DFCS willfully violates any order issued by the court directed to him or her:

(1) Require a child's parent, guardian, or legal custodian to make restitution as provided in Code Section 17-14-5;

(2) Reimburse the state for the costs of detention, treatment, or rehabilitation of a child;

(3) Require a child's parent, guardian, or legal custodian to participate in a court approved educational or counseling program designed to contribute to the ability to provide proper parental care and supervision of such child, including, but not limited to, parenting classes; or

(4) Require a child's parent, guardian, or legal custodian to enter into a contract or plan as a part of the disposition of any charges against such child so as to provide for the supervision and control of such child by his or her parent, guardian, or legal custodian and reunification with such child. (Code 1981, § 15-11-31, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed

effective date note at the beginning of this chapter.

15-11-32. (Effective January 1, 2014) Modification or vacation of orders.

(a) An order of the court shall be set aside if:

(1) It appears that it was obtained by fraud or mistake sufficient therefor in a civil action;

(2) The court lacked jurisdiction over a necessary party or the subject matter; or

(3) Newly discovered evidence so requires.

(b) An order of the court may also be changed, modified, or vacated on the ground that changed circumstances so require in the best interests of a child except an order of dismissal following a contested adjudicatory hearing.

(c) Except as otherwise provided in Code Section 15-11-602, an order committing a child to DJJ may only be modified after such child has been transferred to DJJ custody upon motion of DJJ.

(d) An order of adjudication of delinquency by a court may be modified or vacated if the child was adjudicated for a delinquent act for a sexual crime as defined in Code Section 16-3-6 and such crime resulted from the child being:

(1) Trafficked for sexual servitude in violation of Code Section 16-5-46; or

(2) A victim of sexual exploitation as defined in Code Section 49-5-40.

(e) Any party to the proceeding, the probation officer, or any other person having supervision or legal custody of or an interest in a child may petition the court for the relief provided in this Code section. Such petition shall set forth in clear and concise language the grounds upon which the relief is requested.

(f) After a petition seeking relief under this Code section is filed, the court shall fix a time for hearing and shall cause notice to be served on the parties to the proceeding or those affected by the relief sought. After the hearing, the court shall deny or grant relief as the evidence warrants. (Code 1981, § 15-11-32, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-33. (Effective January 1, 2014) Transfer when disposition incorporates reunification plan and parents reside in different counties.

(a) Whenever an order of disposition incorporates a reunification plan and the residence of the parent is not in the county of the court with jurisdiction or the residence of the parent changes to a county other than the county of the court with jurisdiction, the court may transfer jurisdiction to the juvenile court of the residence of the parent to whom the reunification plan is directed.

(b) Within 30 days of the filing of the transfer order, the transferring court shall provide the receiving court with certified copies of the adjudication order, the order of disposition, the order of transfer, the case plan, and any other court documents deemed necessary by the transferring court to enable the receiving court to assume jurisdiction over the matter.

(c) The transferring court shall retain jurisdiction until the receiving court acknowledges acceptance of the transfer.

(d) Compliance with this Code section shall terminate jurisdiction in the transferring court and confer jurisdiction in the receiving court. (Code 1981, § 15-11-33, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-34. (Effective January 1, 2014) Commitment to adult correctional facility prohibited.

Except as otherwise provided by Code Section 17-10-14, a child shall not be committed to an adult correctional facility or other facility used primarily for the execution of sentences of persons convicted of a crime. (Code 1981, § 15-11-34, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-35. (Effective January 1, 2014) Appeals.

In all cases of final judgments of the juvenile court, appeals shall be taken to the Court of Appeals or the Supreme Court in the same manner as appeals from the superior court. However, no such judgment or order shall be superseded except in the discretion of the trial court; rather, the judgment or order of the court shall stand until reversed or modified by the reviewing court. (Code 1981, § 15-11-35, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-36. (Effective January 1, 2014) Expenses charged to county; payment by parent on court order.

(a) The following expenses shall be a charge upon the funds of the county upon certification thereof by the court:

(1) The cost of medical and other examinations and treatment of a child ordered by the court;

(2) The cost of care and support of a child committed by the court to the legal custody of an individual or a public or private agency other than DJJ, but the court may order supplemental payments, if such are necessary or desirable for services;

(3) Reasonable compensation for services and related expenses of an attorney appointed by the court, when appointed by the court to represent a child and when appointed by the court to conduct the proceedings;

(4) Reasonable compensation for a guardian ad litem;

(5) The expense of service of summons, notices, and subpoenas; travel expenses of witnesses; transportation, subsistence, and detention of a child for juvenile court proceedings or superior court proceedings when a child is prosecuted in superior court pursuant to Code Section 15-11-560; and other like expenses incurred in the proceedings under this chapter; and

(6) The cost of counseling and counsel and advice required or provided under the provisions of Code Section 15-11-212 or 15-11-601.

(b) The court shall determine whether the expenses shall be a charge upon the funds of the county and certify such expenses to the county governing authority within 120 days from the date such expenses were submitted to the court for certification. If the court has not made such certification within 120 days, the court shall be deemed to have denied certification.

(c) If, after due notice to the parent or other person legally obligated to care for and support a child and after affording such person an opportunity to be heard, the court finds that such person is financially able to pay all or part of the costs and expenses outlined in subsection (a) of this Code section, the court may order such person to pay the same and prescribe the manner of payment. In addition, the court may order payment from a child's parent or other legally obligated person or entity to reimburse all or part of the costs and expenses of the department or DJJ for treatment, care, and support of a child. Unless otherwise ordered, payment shall be made to the clerk of the court for remittance to the person or agency, including the department or DJJ, to whom compensation is due or, if the costs and expenses have been paid by the county, to the appropriate officer of the county. (Code 1981, § 15-11-36, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed

effective date note at the beginning of this chapter.

15-11-37. (Effective January 1, 2014) Supervision fees.

(a) The court may collect supervision fees from those who are placed under the court's formal or informal supervision in order that the court may use those fees to expand the provision of the following types of ancillary services:

- (1) Housing in nonsecure residential facilities;
- (2) Educational services, tutorial services, or both;
- (3) Counseling and diagnostic testing;
- (4) Mediation;
- (5) Transportation to and from court ordered services;
- (6) Truancy intervention services;
- (7) Restitution programs;
- (8) Job development or work experience programs;
- (9) Community services; and

(10) Any other additional programs or services needed to meet the best interests, development, and rehabilitation of a child.

(b)(1) The juvenile court may order each delinquent child or child in need of services who receives supervision to pay to the clerk of the court:

(A) An initial court supervision user's fee of not less than \$10.00 nor more than \$200.00; and

(B) A court supervision user's fee of not less than \$2.00 nor more than \$30.00 for each month that a child receives supervision.

(2) A child and his or her parent, guardian, or legal custodian may be jointly and severally liable for the payment of fees set forth in paragraph (1) of this subsection and shall be subject to the enforcement procedure in subsection (c) of Code Section 15-11-36. The judge shall provide that any such fees shall be imposed on such terms and conditions as shall assure that the funds for the payment are from moneys earned by such child. All moneys collected by the clerk under this subsection shall be transferred to the county treasurer, or such other county official or employee who performs duties previously performed by the treasurer, who shall deposit the moneys into a county supplemental juvenile services fund. The governing authority of the county shall appropriate moneys from the county supplemental juvenile services fund to the juvenile court for the court's discretionary use in providing community services described in subsection (a) of this Code section to child offenders. These funds shall be adminis-

tered by the county and the court may draw upon them by submitting invoices to the county. The county supplemental juvenile services fund may be used only for these services. Any moneys remaining in the fund at the end of the county fiscal year shall not revert to any other fund but shall continue in the county supplemental juvenile services fund. The county supplemental juvenile services fund may not be used to replace other funding of services.

(c) The clerk of the court shall be responsible for collections of fees as ordered by the court.

(d) For the purpose of this Code section, the term “legal custodian” shall not be interpreted or construed to include the department or DJJ. (Code 1981, § 15-11-37, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-38. (Effective January 1, 2014) Community based risk reduction programs.

(a) Any court may order the establishment of a community based risk reduction program, within the geographical jurisdiction of the court, for the purpose of utilizing available community resources in assessment and intervention in cases of delinquency, dependency, or children in need of services so long as the court determines that sufficient funds are available for such programs. Subject to the procedures, requirements, and supervision established in the order creating such program, any individual and any public or private agency or entity may participate in the program.

(b) As part of a risk reduction program, a court may implement or adopt an early intervention program designed to identify children and families who are at risk of becoming involved with the court. Such early intervention program shall be for the purpose of developing and implementing intervention actions or plans to divert the children and their families from becoming involved in future cases in the court. The court’s involvement shall be for the limited purpose of facilitating the development of the program and for the purpose of protecting the confidentiality of the children and families participating in the program.

(c) As part of an early intervention program, the court may enter into protocol agreements with school systems within the court’s jurisdiction, the county department of family and children services, the county department of health, DJJ, any state or local department or agency, any mental health agency or institution, local physicians or health care providers, licensed counselors and social workers, and any other social

service, charitable, or other entity or any other agency or individual providing educational or treatment services to families and children within the jurisdiction of the court. Such protocol agreements shall authorize the exchange of confidential information in the same manner and subject to the same restrictions, conditions, and penalties as provided in Code Section 15-11-40.

(d) When any agency or entity participating in a protocol agreement identifies a child who is at risk of becoming a delinquent child, dependent child, or child in need of services, the agency or entity shall refer the case to a multiagency staffing panel. The panel shall develop a multiagency intervention plan for such child. Such child or his or her parent, or both, may be present during any review of such child's case by the panel. A child's parent, guardian, or legal custodian shall be notified of the intervention plan by the agency making the referral or by a person or entity designated by the panel to administer the program. The staff of the court, other than the judge, shall work with the other agencies involved to educate a child's parent, guardian, or legal custodian and such child on the importance of following the intervention plan and on the consequences if anyone is referred to the court. If an intervention plan is developed for a child and his or her parent, guardian, or legal custodian consents to such plan, the failure to comply with the plan or any portion thereof may constitute the basis for a referral to DFCS. (Code 1981, § 15-11-38, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed

effective date note at the beginning of this chapter.

15-11-39. (Effective January 1, 2014) Risk assessments or risk and needs assessments; case plans.

(a) In any jurisdiction within which a risk reduction program has been established, when a child comes before the court for disposition, the court may order that a risk assessment or risk and needs assessment, as defined in Code Section 49-4A-1, be made of such child and the circumstances resulting in such child being before the court.

(b) If the results of a risk assessment or risk and needs assessment, as defined in Code Section 49-4A-1, demonstrates a need for a case plan, the court may order that a case plan be developed by a panel representing community agencies as authorized by the court. A case plan shall contain the proposed actions and alternatives for the proper and efficient use of available community resources to assist a child.

(c) A case plan shall be served on a child and his or her parent, guardian, or legal custodian. A case plan shall also include a cover letter which contains the following information:

(1) Sources to explain the process, procedures, and penalties for not responding to the court order in the prescribed time frame; and

(2) The deadline for responding to the court order and stating objections to the case plan or any portion thereof is ten days from the date of service.

(d) If no objection is made or if a child and his or her parent, guardian, or legal custodian consents to the case plan, the case plan shall be incorporated into and made a part of the disposition order entered in the case by entry of a supplemental order. The case plan may be modified by the court at any time such child is under the jurisdiction of the court.

(e) If a child or his or her parent, guardian, or legal custodian objects to the case plan, the court shall conduct a hearing. The court may decline to adopt the case plan or may confirm or modify the case plan. In implementing a case plan, the court shall have available all of the protective powers set forth in Code Section 15-11-29, without the necessity of a show cause hearing, unless objection is made to the case plan. (Code 1981, § 15-11-39, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed

effective date note at the beginning of this chapter.

15-11-40. (Effective January 1, 2014) Information sharing; confidentiality.

(a) Notwithstanding any provision contained in this chapter or in any rule or regulation adopted by any department, board, or agency of the state to the contrary, the court and any individual, public or private agency, or other entity participating in a community based risk reduction program may exchange, as necessary, information, medical records, school records, immigration records, records of adjudication, treatment records, and any other records or information which may aid in the assessment of and intervention with the children and families in such program if such exchange of information is ordered by the court or consented to by the parties. Such information shall be used by such individuals and agencies only for the purposes provided in this chapter and as authorized by the court for the purpose of implementing the case plan and for the purposes permitted under each agency's own rules and regulations. Such information shall not be released to any other individual or agency except as may be necessary to effect the appropriate treatment or intervention as provided in the case plan. Such information shall otherwise remain confidential as required by state and federal law and the court may punish any violations of confidentiality as contempt of court.

(b) Any person who authorizes or permits any unauthorized person or agency to have access to confidential records or reports of child abuse shall be guilty of a misdemeanor. Any person who knowingly and under false pretenses obtains or attempts to obtain confidential records or reports of child abuse or information contained therein shall be guilty of a misdemeanor.

(c) Confidential records or reports of child abuse and information obtained from such records may not be made a part of any record which is open to the public except that a prosecuting attorney may use and make public that record or information in the course of any criminal prosecution for any offense which constitutes or results from child abuse.

(d) This Code section shall not abridge the provisions relating to confidentiality of patient or client records and shall not serve to destroy or in any way abridge the confidential or privileged character thereof. (Code 1981, § 15-11-40, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

Cross references. — Exchange of information, § 15-11-710.

15-11-41. (Effective January 1, 2014) Compliance with privacy laws.

(a) Except as otherwise provided in Code Section 15-11-710, entities governed by federal or state privacy laws may require the following before sharing confidential information:

(1) For release of child abuse records by the department, a subpoena and subsequent order of the court requiring the release of such information in accordance with Code Section 49-5-41;

(2) For release of information relating to diagnosis, prognosis, or treatment of drug and alcohol abuse:

(A) If the person is 18 or has been emancipated, consent from the person to whom such information relates;

(B) If the person is under the age of 18 years and has not been emancipated, valid consent from such person's parent, guardian, or legal custodian or consent by a parent, guardian, or legal custodian to a confidentiality agreement between the health care provider and the unemancipated minor; provided, however, that consent from an unemancipated minor shall be sufficient for the release of such information if the unemancipated minor is allowed by law to consent to the health care service to which the records relate

without the consent of a parent, guardian, or legal custodian and has not designated anyone as a personal representative; or

(C) A subpoena requiring the release of such information and protective order of the court regarding the release of such information; and

(3) For release of confidential health, mental health, or education records:

(A) If the person is 18 or has been emancipated, consent from the person to whom such information relates;

(B) If the person is under the age of 18 years and has not been emancipated, valid consent from such person's parent, guardian, or legal custodian or consent by a parent, guardian, or legal custodian to a confidentiality agreement between the health care provider and the unemancipated minor; provided, however, that consent from an unemancipated minor shall be sufficient for the release of such information if the unemancipated minor is allowed by law to consent to the health care service to which the records relate without the consent of a parent, guardian, or legal custodian and has not designated anyone as a personal representative;

(C) A subpoena requiring the release of such information; or

(D) An order of the court requiring the release of such information.

(b) In issuing an order for the release of information under this Code section, the court may:

(1) Include protections against further disclosure of the information;

(2) Limit the purposes for which the information may be used; and

(3) Require records to be redacted so that only relevant information is shared.

(c) Nothing in this Code section shall be deemed to replace the responsibility of entities governed by federal and state privacy laws to comply with such laws.

(d) Nothing in this Code section shall be construed as barring or limiting the release of confidential information referred to in this Code section pursuant to a search warrant. (Code 1981, § 15-11-41, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed

effective date note at the beginning of this chapter.

ARTICLE 2

JUVENILE COURT ADMINISTRATION

15-11-50. (Effective January 1, 2014) Creation of juvenile courts; appointment of judges.

(a) There is created a juvenile court in every county in the state.

(b) Except where election is provided by local law, the judge or a majority of the judges of the superior court in each circuit in the state may appoint one or more qualified persons as judge of the juvenile courts of the circuit. Such superior court judge or judges shall establish the total number of circuit-wide juvenile court judges and shall establish whether the judge or judges shall be full time or part time, or a combination of full time and part time. Each circuit-wide judge appointed shall have the authority to act as judge of each juvenile court in each county of the circuit.

(c) If no person is appointed as a juvenile court judge for a circuit, then a superior court judge of the circuit shall as part of the duties of the superior court judge assume the duties of the juvenile court judge in all counties in the circuit in which a separate juvenile court judgeship has not been established.

(d) All juvenile court judgeships established on or before October 1, 2000, and their methods of compensation, selection, and operation shall continue until such time as one or more circuit-wide juvenile court judges are appointed. However, in any circuit where a superior court judge assumes the duties of the juvenile court judge, such circuit shall not be entitled to the state funds provided for in Code Section 15-11-52.

(e) When one or more circuit-wide juvenile court judges are appointed or elected, any juvenile court judge in office at that time shall be authorized to fulfill his or her term of office. The jurisdiction of each judge shall be circuit wide.

(f) After the initial appointments and prior to any subsequent appointment or reappointment of any part-time or full-time juvenile court judge, the judge or judges responsible for making the appointment shall publish notice of the vacancy of the juvenile court judgeship once a month for three months prior to such appointment or reappointment. Such notice shall be published in the official legal organ of each of the counties in the circuit where the juvenile court judge has venue. The expense of such publication shall be paid by the county governing authority in the county where such notice is published.

(g) In the event that more than one juvenile court judge is appointed, one judge shall be designated presiding judge.

(h) In any case in which action under this Code section is to be taken by a superior court judge of the circuit, such action shall be taken as follows:

(1) Where there are one or two superior court judges, such action shall be taken by the chief judge of the circuit; and

(2) Where there are more than two superior court judges, such action shall be taken by a majority vote of the judges of the circuit. (Code 1981, § 15-11-50, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-51. (Effective January 1, 2014) Qualification of judges.

(a) No person shall be judge of the juvenile court unless, at the time of his or her appointment, he or she has attained the age of 30 years, has been a citizen of this state for three years, is a member of the State Bar of Georgia, and has practiced law for five years.

(b) A juvenile court judge shall be eligible for reappointment or reelection. (Code 1981, § 15-11-51, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-52. (Effective January 1, 2014) Terms and compensation of judges.

(a) Each appointed juvenile court judge shall serve for a term of four years.

(b) The compensation of the full-time or part-time juvenile court judges shall be set by the superior court with the approval of the governing authority or governing authorities of the county or counties for which the juvenile court judge is appointed.

(c) Out of funds appropriated to the judicial branch of government, the state shall contribute toward the salary of the judges on a per circuit basis in the following amounts:

(1) Each circuit with one or more juvenile court judges who are not superior court judges assuming the duties of juvenile court judges shall receive a state base grant of \$85,000.00;

(2) In addition to this base amount, each circuit which has more than four superior court judges shall be eligible for additional state

grants. For each superior court judge who exceeds the base of four judges, the circuit shall be eligible for an additional grant in an amount equal to one-fourth of the base amount of the state grant;

(3) In circuits where the superior court judges elect to use the state grant for one or more part-time judges, the amount of the state grant shall be as follows:

(A) For each part-time judge who works one day weekly
\$17,000.00

(B) For each part-time judge who works two days weekly
34,000.00

(C) For each part-time judge who works three days weekly
51,000.00

(D) For each part-time judge who works four days weekly
68,000.00;

provided, however, that a grant for one or more part-time judges shall not exceed the amount the circuit is eligible for in accordance with paragraphs (1) and (2) of this subsection; and

(4) All state grants provided by this subsection shall be spent solely on salaries for juvenile court judges and shall not be used for any other purposes. (Code 1981, § 15-11-52, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed

effective date note at the beginning of this chapter.

15-11-53. (Effective January 1, 2014) Practice of law by judges.

(a) It shall be unlawful for any full-time juvenile court judge to engage in any practice of law outside his or her role as a juvenile court judge.

(b) It shall be unlawful for a part-time judge of any juvenile court to engage directly or indirectly in the practice of law in his or her own name or in the name of another as a partner in any manner in any case, proceeding, or matter of any kind in the court to which he or she is assigned or in any other court in any case, proceeding, or any other matters of which it has pending jurisdiction or has had jurisdiction.

(c) It shall be unlawful for any juvenile court judge, full time or part time, to give advice or counsel to any person on any matter of any kind whatsoever which has arisen directly or indirectly in court, except such advice or counsel as a judge is called upon to give while performing the duties of a juvenile court judge. (Code 1981, § 15-11-53, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

Cross references. — Judges shall regulate their extra-judicial activities to minimize the risk of conflict with their judicial duties, Georgia Code of Judicial Conduct, Canon 5.

15-11-54. (Effective January 1, 2014) Administration and expenses of juvenile courts.

(a) Each juvenile court shall be assigned and attached to the superior court of the county for administrative purposes.

(b) The governing authority of the county of residence of each juvenile court judge shall offer the juvenile court judge insurance benefits and any other benefits except retirement or pension benefits equivalent to those offered to employees of the county, with a right to contribution from other counties in the circuit for a pro rata contribution toward the costs of such benefits, based on county population. Counties shall continue to provide membership in retirement plans available to county employees for any juvenile court judge in office before July 1, 1998, who did not become a member of the Georgia Judicial Retirement System provided by Chapter 23 of Title 47.

(c) Except for state base grants provided by Code Section 15-11-52, all expenditures of the court are declared to be an expense of the court and payable out of the county treasury with the approval of the governing authority or governing authorities of the county or counties for which the juvenile court judge is appointed. (Code 1981, § 15-11-54, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed

effective date note at the beginning of this chapter.

15-11-55. (Effective January 1, 2014) Applicability of local laws.

(a) To the extent that the provisions of this article conflict with a local constitutional amendment authorizing the election of a juvenile court judge and with the provisions of a local Act authorized by such local constitutional amendment to provide for the term of office, vacancies in office, qualifications, compensation, and full-time or part-time status of a juvenile court judge or judges, the provisions of such local constitutional amendment and such local Act shall govern.

(b) The state grants provided by Code Section 15-11-52 shall be provided to any circuit encompassing a juvenile court governed by the provisions of a local constitutional amendment and a local Act in the same manner as other circuits, except that, in any circuit with one or more elected juvenile court judges, the elected juvenile court judge who

is senior in duration of service as a juvenile court judge shall establish, subject to other applicable provisions of law, the total number of circuit-wide juvenile court judges, whether the judge or judges shall be full time or part time or a combination of full time and part time, and the compensation of any part-time juvenile court judge or judges. (Code 1981, § 15-11-55, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed

effective date note at the beginning of this chapter.

15-11-56. (Effective January 1, 2014) Simultaneous service by judges.

(a) No person who is serving as a full-time juvenile court judge shall at the same time hold the office of judge of any other class of court of this state.

(b) No person serving as a juvenile court judge after being elected juvenile court judge pursuant to a local law authorized by a constitutional amendment shall at the same time hold the office of judge of any other class of court of this state.

(c) Nothing in this Code section shall prevent any duly appointed or elected juvenile court judge from sitting by designation as a superior court judge pursuant to Code Section 15-1-9.1. (Code 1981, § 15-11-56, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed

effective date note at the beginning of this chapter.

15-11-57. (Effective January 1, 2014) Commissioning of juvenile court judges; appointment of associate juvenile court judges.

(a) Whenever a juvenile court judge is appointed it shall be the duty of the clerk of the superior court to forward to the Secretary of State and to the Council of Juvenile Court Judges a certified copy of the order of appointment. The order of appointment shall set out the name of the person appointed, the term of office, the effective date of the appointment, the name of the person being succeeded, if any, and whether the office was vacated by resignation, death, or otherwise. Upon receipt of such order, the Secretary of State shall issue a commission as for superior court judges.

(b) Whenever an associate juvenile court judge is appointed to serve in a juvenile court, the clerk of the juvenile court shall forward a certified copy of the order of appointment to the Council of Juvenile

Court Judges. (Code 1981, § 15-11-57, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-58. (Effective January 1, 2014) Council of juvenile court judges; role; director.

(a) All of the judges and associate judges of the courts exercising jurisdiction over children shall constitute a Council of Juvenile Court Judges. The council shall annually elect from among its members a judge to serve as presiding judge and chairperson of the council.

(b) The Council of Juvenile Court Judges:

(1) Shall meet at stated times to be fixed by it or on call of the chairperson;

(2) May establish general policies for the conduct of courts exercising jurisdiction over children;

(3) May promulgate uniform rules and forms governing procedures and practices of the courts;

(4) Shall publish in print or electronically an annual report of the work of the courts exercising jurisdiction over children, which shall include statistical and other data on the courts' work and services, research studies the council may make of the problems of children and families dealt with by the courts, and any recommendations for legislation; and

(5) Shall be authorized to inspect and copy records of the courts, law enforcement agencies, the department, and DJJ for the purpose of compiling statistical data on children.

(c) Subject to the approval of the Council of Juvenile Court Judges, the presiding judge of the council shall appoint a chief administrative and executive officer for the council who shall have the title of director of the Council of Juvenile Court Judges. Under the general supervision of the presiding judge of the council and within the policies established by the council, the director shall:

(1) Provide consultation to the courts regarding the administration of court services and the recruitment and training of personnel;

(2) Make recommendations to the council for improvement in court services;

(3) With the approval of the presiding judge, appoint consultants and necessary clerical personnel to perform the duties assigned to the council and the director;

(4) Collect necessary statistics and prepare an annual report of the work of the courts;

(5) Promulgate in cooperation with DJJ standard procedures for coordinating DJJ and county juvenile probation services throughout this state; and

(6) Perform such other duties as the presiding judge of the council shall specify. (Code 1981, § 15-11-58, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed

effective date note at the beginning of this chapter.

15-11-59. (Effective January 1, 2014) Educational seminars.

(a) The Council of Juvenile Court Judges, in conjunction with the Institute of Continuing Judicial Education of Georgia, shall establish seminars for all judges and associate juvenile court judges exercising juvenile court jurisdiction and may make provisions relative to such seminars by court rules properly adopted.

(b) Seminars shall offer instruction and training in juvenile law and procedure, child development and psychology, sociological theories relative to delinquency and breakdown of the family structure, and such other training and activities as the council may determine would promote the quality of justice in the juvenile court system.

(c) Expenses of administration of seminar programs and actual expenses incurred by the judges or associate juvenile court judges in attending such seminars shall be paid from state funds appropriated for the council for such purpose, from federal funds available to the council for such purpose, or from other sources. Judges and associate juvenile court judges shall receive the same expense and travel allowances which members of the General Assembly receive for attending meetings of legislative interim committees.

(d) Each judge and associate juvenile court judge exercising juvenile jurisdiction shall receive training appropriate to the role and participate in at least 12 hours of continuing legal education or continuing judicial education established or approved by the council each year and meet such rules as established by the council pertaining to such training. Superior court judges may meet this requirement by attending seminars held in conjunction with the seminars for superior court judges provided by the Institute of Continuing Judicial Education of Georgia. Judges and associate juvenile court judges shall not exercise juvenile court jurisdiction unless the council certifies that annual training has been accomplished or unless the judge is in the first year

of his or her initial appointment; provided, however, that the council may in hardship cases extend deadlines for compliance with this Code section. (Code 1981, § 15-11-59, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

Cross references. — Rules and Regulations for the Organization and Government of the State Bar of Georgia

15-11-60. (Effective January 1, 2014) Associate juvenile court judges; qualifications.

(a) A judge may appoint one or more persons to serve as associate juvenile court judges in juvenile matters on a full-time or part-time basis. The associate juvenile court judge shall serve at the pleasure of the judge, and his or her salary shall be fixed by the judge with the approval of the governing authority or governing authorities of the county or counties for which the associate juvenile court judge is appointed. The salary of each associate juvenile court judge shall be paid from county funds.

(b) Each associate juvenile court judge shall have the same qualifications as required for a judge of the juvenile court as provided in Code Section 15-11-51; provided, however, that any person serving as an associate juvenile court judge on July 1, 2007, shall be qualified for appointment thereafter to serve as an associate juvenile court judge. (Code 1981, § 15-11-60, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed

effective date note at the beginning of this chapter.

15-11-61. (Effective January 1, 2014) Associate juvenile court traffic judges.

(a) The judge may appoint one or more persons to serve at the pleasure of the judge as associate juvenile court traffic judges on a full-time or part-time basis.

(b) An associate juvenile court traffic judge shall be a member of the State Bar of Georgia.

(c) The compensation of associate juvenile court traffic judges shall be fixed by the judge with the approval of the governing authority of the county and shall be paid in equal monthly installments from county funds, unless otherwise provided by law. (Code 1981, § 15-11-61, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-62. (Effective January 1, 2014) Pro tempore juvenile court judges.

(a) In the event of the disqualification, illness, or absence of the judge of the juvenile court, the judge of the juvenile court may appoint any member of the State Bar of Georgia who is resident in the judicial circuit in which the court lies and has practiced law for five years, any judge or senior judge of the superior courts, any duly appointed juvenile court judge, or any duly appointed associate juvenile court judge to serve as judge pro tempore of the juvenile court. In the event the judge of the juvenile court is absent or unable to make such appointment, the judge of the superior court of that county may so appoint.

(b) The person appointed shall have the authority to preside in the stead of the disqualified, ill, or absent judge and shall be paid from the county treasury such emolument as the appointing judge shall prescribe; provided, however, that the emolument shall not exceed the compensation received by the regular juvenile court judge for such services. (Code 1981, § 15-11-62, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242; Ga. L. 2013, p. 122, § 2-1/HB 182.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

The 2013 amendment, effective January

ary 1, 2014, substituted “any duly appointed juvenile court judge, or any duly appointed associate juvenile court judge” for “, or any duly appointed juvenile court judge” in the first sentence of subsection (a).

15-11-63. (Effective January 1, 2014) Clerks and other personnel.

(a) The judge of the juvenile court shall have the authority to appoint clerks and any other personnel necessary for the execution of the purposes of this chapter.

(b) The salary, tenure, compensation, and all other conditions of employment of such employees shall be fixed by the judge, with the approval of the governing authority of the county. The salaries of the employees shall be paid out of county funds.

(c) Any employee of the court may be removed for cause by the judge of the court, the reasons therefor to be assigned in writing. (Code 1981, § 15-11-63, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-64. (Effective January 1, 2014) Collection of information by juvenile court clerks.

Each clerk of the juvenile court shall collect the following information for each child in need of services, delinquent child, and child accused of a class A designated felony act or class B designated felony act and provide such information to DJJ as frequently as requested by DJJ:

- (1) Name;
- (2) Date of birth;
- (3) Sex;
- (4) Race;
- (5) Offense charged;
- (6) Location of the offense, including the name of the school if the offense occurred in a school safety zone, as defined in Code Section 16-11-127.1;
- (7) The name of the referral source, including the name of the school if the referring source was a school;
- (8) Disposition of the case; and
- (9) Date of and authority for commitment, if applicable. (Code 1981, § 15-11-64, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-65. (Effective January 1, 2014) Training requirements for juvenile court clerks.

(a) Any person who is appointed as or is performing the duties of a clerk of the juvenile court shall satisfactorily complete 20 hours of training in the performance of the duties of a clerk of the juvenile court within the first 12 months following such appointment or the first performance of such duties.

(b) In each year after the initial appointment, any person who is appointed as or is performing the duties of a clerk of the juvenile court shall satisfactorily complete in that year 12 hours of additional training in the performance of such person's duties as clerk.

(c) Training pursuant to this Code section shall be provided by the Institute of Continuing Judicial Education of Georgia. Upon satisfactory completion of such training, a certificate issued by the institute shall be placed into the minutes of the juvenile court record in the county in which such person serves as a clerk of the juvenile court. All reasonable expenses of such training including, but not limited to, any tuition fixed by such institution shall be paid from county funds by the governing authority of the county for which the person serves as a clerk of the juvenile court, unless funding is provided from other sources.

(d) A judge of the juvenile court shall appoint a clerk pro tempore for that court in order for the regular clerk to attend required training. Such clerk pro tempore shall not be required to meet the training requirements for performing the clerk's duties.

(e) The provisions of this Code section shall not apply to clerks of juvenile courts who also act as clerks of superior courts and who already have mandatory training requirements in such capacity. (Code 1981, § 15-11-65, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-66. (Effective January 1, 2014) Appointment and salaries of probation and intake officers.

(a) The judge may appoint one or more probation and intake officers.

(b) The salaries of the probation and intake officers shall be fixed by the judge with the approval of the governing authority of the county or counties for which he or she is appointed and shall be payable from county funds. (Code 1981, § 15-11-66, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-67. (Effective January 1, 2014) Duties of probation officers.

(a) A county juvenile probation officer or DJJ staff member serving as a juvenile probation officer:

(1) Shall make investigations, reports, and recommendations to the court as directed by this chapter;

(2) Shall supervise and assist a child placed on probation or under the protective supervision or care of such probation officer by order of the court or other authority of law;

(3) May, unless otherwise ordered by the court, determine if a child should be placed on unsupervised probation and, if so, place a child on unsupervised probation;

(4) Shall make appropriate referrals to other private or public agencies of the community if such assistance appears to be needed or desirable;

(5) May take into custody and detain a child who is under the supervision or care of such probation officer if the probation officer has reasonable cause to believe that such child's health or safety or that of another is in imminent danger or that such child may abscond or be removed from the jurisdiction of the court, or when so ordered by the court pursuant to this chapter;

(6) May not conduct accusatory proceedings against a child who is or may be under such probation officer's care or supervision;

(7) Shall perform all other functions designated by this chapter or by order of the court pursuant to this chapter. Any of the functions specified in this Code section may be performed in another state if authorized by the court located in this state and permitted by the laws of the other state; and

(8) Other laws to the contrary notwithstanding, no probation officer shall be liable for the acts of a child not detained or taken into custody when, in the judgment of such officer, such detention or custody is not warranted.

(b) Notwithstanding subsection (a) of this Code section, DJJ, as the employer, shall maintain sole authority over the duties and responsibilities of all DJJ staff members serving as probation officers. (Code 1981, § 15-11-67, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed

effective date note at the beginning of this chapter.

15-11-68. (Effective January 1, 2014) Duties of juvenile court intake officers.

(a) A juvenile court intake officer:

(1) Shall receive and examine complaints and charges of delinquency, of dependency, or that a child is a child in need of services for the purpose of considering the commencement of proceedings under this chapter;

(2) Shall make appropriate referrals to other private or public agencies of the community if such assistance appears to be needed or desirable;

(3) Shall compile on a regular basis the case files or a report on those cases that were informally adjusted for review by the judge;

(4) May not conduct accusatory proceedings against a child or draft judicial orders, official charges, or any other document which is required to be drafted by an attorney;

(5) Shall perform all other functions designated by this chapter or by order of the court pursuant to this chapter; and

(6) Except as provided in Article I, Section II, Paragraph IX(d) of the Constitution, no county juvenile court intake officer, or DJJ staff member serving as a juvenile court intake officer, shall be liable for the acts of a child not detained or taken into custody when, in the judgment of such officer, such detention or custody is not warranted.

(b) Notwithstanding subsection (a) of this Code section, DJJ, as the employer, shall maintain sole authority over the duties and responsibilities of all DJJ staff members serving as juvenile court intake officers. (Code 1981, § 15-11-68, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-69. (Effective January 1, 2014) Transfer of probation and intake services and employees to Department of Juvenile Justice.

(a) The probation and intake services of the juvenile court of each county may be transferred to and become a part of the state-wide juvenile and intake services and be fully funded through DJJ. The probation and intake officers of juvenile courts of those counties whose probation and intake services are transferred pursuant to this Code section shall become DJJ employees on the date of such transfer and on and after that date such employees shall be subject to the salary schedules and other DJJ personnel policies, except that the salaries of such employees shall not be reduced as a result of becoming DJJ employees.

(b) The probation and intake services of the juvenile court of a county may be transferred to DJJ by a local Act of the General Assembly that approves such transfer.

(c) Persons who were probation and intake officers of the juvenile court of a county on June 30, 1996, but who were transferred as

probation and intake officers to and became a part of the state-wide juvenile and intake services system fully funded through DJJ before January 1, 1999, shall be covered employees in the classified service as defined in Code Section 45-20-2. (Code 1981, § 15-11-69, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

ARTICLE 3
DEPENDENCY PROCEEDINGS

PART 1
GENERAL PROVISIONS

15-11-100. (Effective January 1, 2014) Purpose of article.

The purpose of this article is:

- (1) To assist and protect children whose physical or mental health and welfare is substantially at risk of harm from abuse, neglect, or exploitation and who may be further threatened by the conduct of others by providing for the resolution of dependency proceedings in juvenile court;
- (2) To ensure that dependency proceedings are conducted expeditiously to avoid delays in permanency plans for children;
- (3) To provide the greatest protection as promptly as possible for children; and
- (4) To ensure that the health, safety, and best interests of a child be the paramount concern in all dependency proceedings. (Code 1981, § 15-11-100, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-101. (Effective January 1, 2014) Medical and psychological evaluation orders when investigating child abuse and neglect.

(a) If necessary, the investigator of a report of child abuse and neglect may apply to the court for certain medical examinations and evaluations of a child or other children in the household.

(b) Upon a showing of probable cause in an affidavit executed by the applicant, the court may order a physical examination and evaluation of a child or other children in the household by a physician. Such order may be granted ex parte.

(c) Upon a showing of probable cause in an affidavit executed by the applicant and after a hearing, the court may order a psychological or psychiatric examination and evaluation of a child or other children in the household by a psychologist, psychiatrist, or other licensed mental health professional.

(d) Upon a showing of probable cause in an affidavit executed by the applicant and after a hearing, the court may order a forensic examination and evaluation of a child or other children in the household by a psychologist, psychiatrist, or other licensed mental health professional.

(e) Upon a showing of probable cause in an affidavit executed by the applicant and after a hearing, the court may order a physical, psychological, or psychiatric examination of a child's parent, guardian, or legal custodian. (Code 1981, § 15-11-101, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-102. (Effective January 1, 2014) Dependency case time limitations.

(a) A preliminary protective hearing shall be held promptly and no later than 72 hours after a child is placed in foster care, provided that, if the 72 hour time frame expires on a weekend or legal holiday, such hearing shall be held on the next day which is not a weekend or legal holiday.

(b) If a child was not taken into protective custody or is released from foster care at a preliminary protective hearing, the following time frames apply:

(1) A petition for dependency shall be filed within 30 days of the child's preliminary protective hearing;

(2) Summons shall be served at least 72 hours before the dependency adjudication hearing;

(3) The dependency adjudication hearing shall be held no later than 60 days after the filing of a petition for dependency; and

(4) If the child's dispositional hearing is not held in conjunction with the dependency adjudication hearing, it shall be held and

completed within 30 days after the conclusion of the dependency adjudication hearing.

(c) If a child is not released from foster care at the preliminary protective hearing, the following time frames apply:

(1) A petition for dependency shall be filed within five days of the child's preliminary protective hearing;

(2) Summons shall be served at least 72 hours before the dependency adjudication hearing;

(3) The dependency adjudication hearing shall be held no later than ten days after the filing of a petition for dependency;

(4) DFCS shall submit to the court its written report within 30 days of the date a child who is placed in the custody of DFCS is removed from the home and at each subsequent review of the disposition order. If the DFCS report does not contain a plan for reunification services, a nonreunification hearing shall be held no later than 30 days from the time the report is filed; and

(5) If a dispositional hearing is not held in conjunction with the dependency adjudication hearing, it shall be held and completed within 30 days after the conclusion of the dependency adjudication hearing.

(d) An initial periodic review hearing shall be held within 75 days following a child's removal from his or her home. An additional periodic review shall be held within four months following such initial review.

(e) Permanency plan hearings shall be held no later than 30 days after DFCS has submitted a written report to the court which does not provide a plan for reunification services or:

(1) For children under seven years of age at the time a petition for dependency is filed, no later than nine months after such child is considered to have entered foster care, whichever comes first. Thereafter a permanency plan hearing shall be held every six months while such child continues in DFCS custody or more frequently as deemed necessary by the court until the court determines that such child's permanency plan and goal have been achieved; or

(2) For children seven years of age and older at the time a petition is filed, no later than 12 months after such child is considered to have entered foster care, whichever comes first. Thereafter a permanency plan hearing shall be held every six months while such child continues in DFCS custody or more frequently as deemed necessary by the court until the court determines that such child's permanency plan and goal have been achieved.

(f) A supplemental order of the court adopting a child's permanency plan shall be entered within 30 days after the court has determined that reunification efforts need not be made by DFCS. (Code 1981, § 15-11-102, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-103. (Effective January 1, 2014) Right to attorney.

(a) A child and any other party to a proceeding under this article shall have the right to an attorney at all stages of the proceedings under this article.

(b) The court shall appoint an attorney for an alleged dependent child. The appointment shall be made as soon as practicable to ensure adequate representation of such child and, in any event, before the first court hearing that may substantially affect the interests of such child.

(c) A child's attorney owes to his or her client the duties imposed by the law of this state in an attorney-client relationship.

(d) If an attorney has been appointed to represent a child in a prior proceeding under this chapter, the court, when possible, shall appoint the same attorney to represent such child in any subsequent proceeding.

(e) An attorney appointed to represent a child in a dependency proceeding shall continue the representation in any subsequent appeals unless excused by the court.

(f) Neither a child nor a representative of a child may waive a child's right to an attorney in a dependency proceeding.

(g) A party other than a child shall be informed of his or her right to an attorney prior to any hearing. A party other than a child shall be given an opportunity to:

(1) Obtain and employ an attorney of such party's own choice;

(2) Obtain a court appointed attorney if the court determines that such party is an indigent person; or

(3) Waive the right to an attorney. (Code 1981, § 15-11-103, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-104. (Effective January 1, 2014) Appointment and removal of guardian ad litem; use of a CASA.

(a) The court shall appoint a guardian ad litem for an alleged dependent child.

(b) An attorney for an alleged dependent child may serve as such child's guardian ad litem unless or until there is conflict of interest between the attorney's duty to such child as such child's attorney and the attorney's considered opinion of such child's best interests as guardian ad litem.

(c) A party to the proceeding, the employee or representative of a party to the proceeding, or any other individual with a conflict of interest shall not be appointed as guardian ad litem.

(d) A court shall appoint a CASA to act as guardian ad litem whenever possible, and a CASA may be appointed in addition to an attorney who is serving as a guardian ad litem.

(e) A lay guardian shall not engage in activities which could reasonably be construed as the practice of law.

(f) Before the appointment as a guardian ad litem, such person shall have received training appropriate to the role as guardian ad litem which is administered or approved by the Office of the Child Advocate for the Protection of Children. For attorneys, preappointment guardian ad litem training shall be satisfied within the attorney's existing continuing legal education obligations and shall not require the attorney to complete additional training hours in addition to the hours required by the State Bar of Georgia.

(g) Any volunteer guardian ad litem authorized and acting in good faith, in the absence of fraud or malice and in accordance with the duties required by this Code section, shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed as a result of taking or failing to take any action pursuant to this Code section.

(h) The court may remove a guardian ad litem from a case upon finding that the guardian ad litem acted in a manner contrary to a child's best interests, has not appropriately participated in the case, or if the court otherwise deems continued service as inappropriate or unnecessary.

(i) A guardian ad litem shall not engage in ex parte contact with the court except as otherwise provided by law.

(j) The court, a child, or any other party may compel a guardian ad litem for a child to attend a trial or hearing relating to such child and to testify, if appropriate, as to the proper disposition of a proceeding.

(k) The court shall ensure that parties have the ability to challenge recommendations made by the guardian ad litem or the factual basis for the recommendations in accordance with the rules of evidence applicable to the specific proceeding.

(l) A guardian ad litem's report shall not be admissible into evidence prior to the disposition hearing except in accordance with the rules of evidence applicable to the specific proceeding.

(m) A guardian ad litem who is not also serving as attorney for a child may be called as a witness for the purpose of cross-examination regarding the guardian ad litem's report even if the guardian ad litem is not identified as a witness by a party. (Code 1981, § 15-11-104, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-105. (Effective January 1, 2014) Powers and duties of guardian ad litem.

(a) A guardian ad litem shall advocate for a child's best interests in the proceeding for which the guardian ad litem has been appointed.

(b) In determining a child's best interests, a guardian ad litem shall consider and evaluate all of the factors affecting the best interests of a child in the context of a child's age and developmental needs. Such factors shall include:

(1) The physical safety and welfare of such child, including food, shelter, health, and clothing;

(2) The mental and physical health of all individuals involved;

(3) Evidence of domestic violence in any current, past, or considered home for such child;

(4) Such child's background and ties, including familial, cultural, and religious;

(5) Such child's sense of attachments, including his or her sense of security and familiarity and continuity of affection for the child;

(6) The least disruptive placement alternative for such child;

(7) The child's wishes and long-term goals;

(8) The child's community ties, including church, school, and friends;

(9) The child's need for permanence, including his or her need for stability and continuity of relationships with a parent, siblings, and other relatives;

(10) The uniqueness of every family and child;

(11) The risks attendant to entering and being in substitute care;

(12) The preferences of the persons available to care for such child;
and

(13) Any other factors considered by the guardian ad litem to be relevant and proper to his or her determination.

(c) Unless a child's circumstances render the following duties and responsibilities unreasonable, a guardian ad litem shall at a minimum:

(1) Maintain regular and sufficient in-person contact with the child and, in a manner appropriate to his or her developmental level, meet with and interview such child prior to custody hearings, adjudication hearings, disposition hearings, judicial reviews, and any other hearings scheduled in accordance with the provisions of this chapter;

(2) In a manner appropriate to such child's developmental level, ascertain such child's needs, circumstances, and views;

(3) Conduct an independent assessment to determine the facts and circumstances surrounding the case;

(4) Consult with the child's attorney, if appointed separately, regarding the issues in the proceeding;

(5) Communicate with health care, mental health care, and other professionals involved with such child's case;

(6) Review case study and educational, medical, psychological, and other relevant reports relating to such child and the respondents;

(7) Review all court related documents;

(8) Attend all court hearings and other proceedings to advocate for such child's best interests;

(9) Advocate for timely court hearings to obtain permanency for such child;

(10) Protect the cultural needs of such child;

(11) Contact the child prior to any proposed change in such child's placement;

(12) Contact the child after changes in such child's placement;

(13) Request a judicial citizen review panel or judicial review of the case;

(14) Attend citizen panel review hearings concerning such child and if unable to attend the hearings, forward to the panel a letter

setting forth such child's status during the period since the last citizen panel review and include an assessment of the DFCS permanency and treatment plans;

(15) Provide written reports to the court and the parties on the child's best interests, including, but not limited to, recommendations regarding placement of such child, updates on such child's adjustment to placement, DFCS's and respondent's compliance with prior court orders and treatment plans, such child's degree of participation during visitations, and any other recommendations based on the best interests of the child;

(16) When appropriate, encourage settlement and the use of any alternative forms of dispute resolution and participate in such processes to the extent permitted; and

(17) Monitor compliance with the case plan and all court orders.

(d)(1) Except as provided in Article 11 of this chapter, a guardian ad litem shall receive notices, pleadings, or other documents required to be provided to or served upon a party and shall be notified of all court hearings, judicial reviews, judicial citizen review panels, and other significant changes of circumstances of a child's case which he or she is appointed to the same extent and in the same manner as the parties to the case are notified of such matters.

(2) A guardian ad litem shall be notified of the formulation of any case plan of a child's case which he or she is appointed and may be given the opportunity to be heard by the court about such plans.

(e) Upon presentation of an order appointing a guardian ad litem, such guardian ad litem shall have access to all records and information relevant to a child's case to which he or she is appointed when such records and information are not otherwise protected from disclosure pursuant to Code Section 19-7-5. Such records and information shall not include records and information provided under Article 11 of this chapter or provided under Chapter 4A of Title 49.

(f) All records and information acquired or reviewed by a guardian ad litem during the course of his or her appointment shall be deemed confidential and shall not be disclosed except as ordered by the court.

(g) Except as provided in Code Section 49-5-41, regarding access to records, any guardian ad litem who discloses confidential information obtained during the course of his or her appointment, in violation of law, shall be guilty of a misdemeanor. A guardian ad litem shall maintain all information and records regarding mental health, developmental disability, and substance abuse according to the confidentiality requirements contained in Code Section 37-3-166, 37-4-125, or 37-7-166, as applicable.

(h) In the event of a change of venue, the original guardian ad litem shall, as soon as possible, communicate with the appointed guardian ad litem in the new venue and shall forward all pertinent information to the new guardian ad litem. (Code 1981, § 15-11-105, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed

effective date note at the beginning of this chapter.

15-11-106. (Effective January 1, 2014) Participation of a CASA.

(a)(1) Before executing duties as a CASA, and upon completion of all the requirements of an affiliate court appointed special advocate program, a CASA shall be sworn in by a judge of the juvenile court in the court or circuit in which he or she wishes to serve. A CASA shall not be assigned a case prior to being sworn in by a juvenile court judge as set forth in this paragraph.

(2) If a juvenile court judge determines that a child involved in a dependency proceeding needs a CASA, the judge shall have the authority to appoint a CASA, and in such circumstance shall sign an order appointing a CASA at the earliest possible stage of the proceedings. Such order shall impose on a CASA all the duties, rights, and responsibilities set forth in this Code section and Code Sections 15-11-104 and 15-11-105.

(b) The role of a CASA in juvenile court dependency proceedings shall be to advocate for the best interests of the child.

(c) In addition to the reasons stated in subsection (h) of Code Section 15-11-104, the court may discharge a CASA upon finding that the CASA has acted in a manner contrary to the mission and purpose of the affiliate court appointed special advocate program. (Code 1981, § 15-11-106, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed

effective date note at the beginning of this chapter.

15-11-107. (Effective January 1, 2014) Treatment by spiritual means; life-threatening condition or disability exception.

(a) A parent, guardian, or legal custodian's reliance on prayer or other religious nonmedical means for healing in lieu of medical care, in the exercise of religious beliefs, shall not be the sole basis for considering his or her child to be a dependent child; provided, however, that the religious rights of a parent, guardian, or legal custodian shall not limit

the access of a child to medical care in a life-threatening situation or when the condition will result in serious disability.

(b) In order to make a determination as to whether a child is in a life-threatening situation or that a child's condition will result in serious disability, the court may order a medical evaluation of a child.

(c) If the court determines, on the basis of any relevant evidence before the court, including the court ordered medical evaluation and the affidavit of the attending physician, that a child is in a life-threatening situation or that a child's condition will result in serious disability, the court may order that medical treatment be provided for such child.

(d) A child whose parent, guardian, or legal custodian inhibits or interferes with the provision of medical treatment in accordance with a court order shall be considered to be a dependent child and the court may find the parent, guardian, or legal custodian in contempt and enter any order authorized by and in accordance with the provisions of Code Section 15-11-31. (Code 1981, § 15-11-107, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

Cross references. — Freedom of religion, U.S. Const., amend. 1. Religious opinion and freedom of religion, Ga. Const., Art. I, Sec. I, Para. IV. Consent for surgical treatment, T. 31, C. 9.

15-11-108. (Effective January 1, 2014) Notice of postadjudication hearings to parties.

(a) The court shall give to all parties written notice of the date, time, place, and purpose of the following postadjudication hearings or reviews:

- (1) Nonreunification hearings;
- (2) Disposition hearings;
- (3) Periodic review hearings;
- (4) Periodic reviews by judicial citizen review panel;
- (5) Permanency plan hearings;
- (6) Termination of parental rights hearings; and
- (7) Posttermination of parental rights review hearings.

(b) Issuance and service of summons, when appropriate, shall comply with the requirements of Code Sections 15-11-160 and 15-11-161.

(c) Unless otherwise provided in this chapter, written notice shall be delivered to the recipient at least 72 hours before the hearing or review

by United States mail, e-mail, or hand delivery. (Code 1981, § 15-11-108, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed

effective date note at the beginning of this chapter.

15-11-109. (Effective January 1, 2014) Notice of hearings to specified nonparties.

(a) In advance of each hearing or review, DFCS shall give written notice of the date, time, place, and purpose of the review or hearing, including the right to be heard, to the caregiver of a child, the foster parent of a child, any preadoptive parent, or any relative providing care for a child. The written notice shall be delivered to the recipient at least 72 hours before the review or hearing, except in the case of preliminary protective hearings or emergency hearings when such notice is not possible, by United States mail, e-mail, or hand delivery.

(b) Notice of a hearing or review shall not be construed to require a legal custodian, foster parent, preadoptive parent, or relative caring for a child to be made a party to the hearing or review solely on the basis of such notice and opportunity to be heard. (Code 1981, § 15-11-109, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed

effective date note at the beginning of this chapter.

15-11-110. (Effective January 1, 2014) Continuance of a hearing in dependency proceedings.

(a) Upon request of an attorney for a party, the court may continue any hearing under this article beyond the time limit within which the hearing is otherwise required to be held; provided, however, that no continuance shall be granted that is contrary to the interests of the child. In considering a child's interests, the court shall give substantial weight to a child's need for prompt resolution of his or her custody status, the need to provide a child with a stable environment, and the damage to a child of prolonged temporary placements.

(b) Continuances shall be granted only upon a showing of good cause and only for that period of time shown to be necessary by the evidence presented at the hearing on the motion. Whenever any continuance is granted, the facts proved which require the continuance shall be entered in the court record.

(c) A stipulation between attorneys or the convenience of the parties shall not constitute good cause. Except as otherwise provided by

judicial rules governing attorney conflict resolution, a pending criminal prosecution or family law matter shall not constitute good cause. The need for discovery shall not constitute good cause.

(d) In any case in which a child or his or her parent, guardian, or legal custodian is represented by an attorney and no objection is made to an order continuing any such hearing beyond the time limit, the absence of such an objection shall be deemed a consent to the continuance; provided, however, that even with consent, the court shall decide whether to grant the continuance in accordance with subsection (a) of this Code section. (Code 1981, § 15-11-110, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-111. (Effective January 1, 2014) Court orders.

(a) At any hearing held with respect to a child, the court in its discretion, and based upon the evidence, may enter an order:

- (1) Accepting or rejecting any DFCS report;
- (2) Ordering an additional evaluation; or

(3) Undertaking such other review as it deems necessary and appropriate to determine the disposition that is in the child's best interests.

(b) The court's order:

- (1) May incorporate all or part of the DFCS report; and

(2) Shall include findings of fact which reflect the court's consideration of the oral and written testimony offered by all parties, as well as nonparties, who are required to be provided with notice and a right to be heard in any hearing to be held with respect to a child, and DFCS. (Code 1981, § 15-11-111, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-112. (Effective January 1, 2014) Court ordered visitation.

(a) When a child is removed from his or her home, the court shall order reasonable visitation that is consistent with the age and developmental needs of a child if the court finds that it is in a child's best interests. The court's order shall specify the frequency, duration, and

terms of visitation including whether or not visitation shall be supervised or unsupervised.

(b) There shall be a presumption that visitation shall be unsupervised unless the court finds that unsupervised visitation is not in a child's best interests.

(c) Within 30 days of the court finding that there is a lack of substantial progress towards completion of a case plan, the court shall review the terms of visitation and determine whether the terms continue to be appropriate for a child or whether the terms need to be modified. (Code 1981, § 15-11-112, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed

effective date note at the beginning of this chapter.

15-11-113. (Effective January 1, 2014) Date child is considered to have entered foster care.

When a child is alleged to be a dependent child, the date such child is considered to have entered foster care shall be the date of the first judicial finding that such child has been subjected to child abuse or neglect or the date that is 60 days after the date on which such child is removed from his or her home, whichever is earlier. (Code 1981, § 15-11-113, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed

effective date note at the beginning of this chapter.

PART 2

VENUE FOR DEPENDENCY PROCEEDINGS

15-11-125. (Effective January 1, 2014) Venue.

(a) A proceeding under this article may be commenced:

(1) In the county in which a child legally resides; or

(2) In the county in which a child is present when the proceeding is commenced if such child is present without his or her parent, guardian, or legal custodian or the acts underlying the dependency allegation are alleged to have occurred in that county.

(b) For the convenience of the parties, the court may transfer the proceeding to the county in which a child legally resides. If the proceeding is transferred, certified copies of all legal and social docu-

ments and records pertaining to the proceeding on file with the clerk of court shall accompany the transfer. (Code 1981, § 15-11-125, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

PART 3

TAKING INTO CARE

15-11-130. (Effective January 1, 2014) Emergency care and supervision of child without court order; immunity.

(a) Notwithstanding Code Sections 15-11-133 and 15-11-135, DFCS shall be authorized to provide emergency care and supervision to any child without seeking a court order for a period not to exceed seven days when:

(1) As a result of an emergency or illness, the person who has physical and legal custody of a child is unable to provide for the care and supervision of such child, and such person or a law enforcement officer, emergency personnel employed by a licensed ambulance provider, fire rescue personnel, or a hospital administrator or his or her designee requests that DFCS exercise such emergency custody; and

(2) A child is not at imminent risk of abuse or neglect, other than the risks arising from being without a caretaker.

(b) During the period when a child is in the temporary care and supervision of DFCS, DFCS shall endeavor to place such child with a relative of such child's parent, guardian, or legal custodian, in foster care, or in emergency foster care or shall make other appropriate placement arrangements. DFCS shall have the same rights and powers with regard to such child as does his or her parent, guardian, or legal custodian including the right to consent to medical treatment.

(c) Immediately upon receiving custody of a child, DFCS shall begin a diligent search for a relative or other designee of a child's parent who can provide for the care and supervision of such child.

(d) At any time during such seven-day period, and upon notification to DFCS that a child's parent, guardian, or legal custodian or an expressly authorized relative, or designee thereof, is able to provide care to and exercise control over a child, DFCS shall release such child to the person having custody of such child at the time such child was taken into DFCS custody or to such person's authorized relative or designee.

(e) Upon the expiration of such seven-day period, if a child has not been released or if DFCS determines that there is an issue of neglect,

abandonment, or abuse, DFCS shall promptly contact a juvenile court intake officer or bring such child before the juvenile court. If, upon making an investigation, the juvenile court intake officer finds that foster care is warranted for such child, then, for purposes of this chapter, such child shall be deemed to have been placed in foster care at the time such finding was made and DFCS may file a dependency petition.

(f) DFCS and its successors, agents, assigns, and employees shall be immune from any and all liability for providing care and supervision in accordance with this Code section, for consenting to medical treatment for a child, and for releasing a child. (Code 1981, § 15-11-130, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-131. (Effective January 1, 2014) Temporary protective custody of child by physician without court order and without parental consent; immunity.

(a) Notwithstanding Code Section 15-11-133, a physician licensed to practice medicine in this state who is treating a child may take or retain temporary protective custody of such child, without a court order and without the consent of his or her parent, guardian, or legal custodian, provided that:

(1) A physician has reasonable cause to believe that such child is in a circumstance or condition that presents an imminent danger to such child's life or health as a result of suspected abuse or neglect; or

(2) There is reasonable cause to believe that such child has been abused or neglected and there is not sufficient time for a court order to be obtained for temporary custody of such child before such child may be removed from the presence of the physician.

(b) A physician holding a child in temporary protective custody shall:

(1) Make reasonable and diligent efforts to inform the child's parents, guardian, or legal custodian of the whereabouts of such child;

(2) As soon as possible, make a report of the suspected abuse or neglect which caused him or her to take temporary custody of the child and inform DFCS that such child has been held in temporary custody; and

(3) Not later than 24 hours after such child is held in temporary custody:

(A) Contact a juvenile court intake officer, and inform such intake officer that such child is in imminent danger to his or her life or health as a result of suspected abuse or neglect; or

(B) Contact a law enforcement officer who shall take such child and promptly bring such child before a juvenile court intake officer.

(c) A child who meets the requirements for inpatient admission shall be retained in a hospital or institution until such time as such child is medically ready for discharge. Upon notification by the hospital or institution to DFCS that a child who is not eligible for inpatient admission or who is medically ready for discharge has been taken into custody by a physician and such child has been placed in DFCS custody, DFCS shall take physical custody of such child within six hours of being notified.

(d) If a juvenile court intake officer determines that a child is to be placed in foster care and the court orders that such child be placed in DFCS custody, then:

(1) If such child remains in the physical care of the physician, DFCS shall take physical possession of such child within six hours of being notified by the physician, unless such child meets the criteria for admission to a hospital or other medical institution or facility; or

(2) If such child has been brought before the court by a law enforcement officer, DFCS shall promptly take physical possession of such child.

(e) If a juvenile court intake officer determines that a child should not be placed in foster care, such child shall be released.

(f) If a child is placed in foster care, then the court shall notify such child's parents, guardian, or legal custodian, the physician, and DFCS of the preliminary protective hearing which is to be held within 72 hours.

(g) If after the preliminary protective hearing a child is not released, DFCS shall file a petition alleging dependency in accordance with this article, provided that there is a continued belief that such child's life or health is in danger as a result of suspected abuse or neglect.

(h) Any hospital or physician authorized and acting in good faith and in accordance with acceptable medical practice in the treatment of a child under this Code section shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed as a result of taking or failing to take any action pursuant to this Code section. This Code section shall not be construed as imposing any additional duty not already otherwise imposed by law. (Code 1981, § 15-11-131, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

Cross references. — Child abuse, T. 19, C. 15.

15-11-132. (Effective January 1, 2014) Verbal custody order.

(a) The facts supporting the issuance of an order of removal may be relayed orally, including telephonically, to the judge or a designated juvenile court intake officer, and the order directing that a child be taken into custody may be issued orally or electronically.

(b) When a child is taken into custody under exceptional circumstances, an affidavit or sworn complaint containing the information previously relayed orally, including telephonically, shall be filed with the clerk of the court the next business day, and a written order shall be issued if not previously issued. The written order shall include the court's findings of fact supporting the necessity for such child's removal from the custody of his or her parent, guardian, or legal custodian in order to safeguard such child's welfare and shall designate a child's legal custodian.

(c) The affidavit or sworn complaint filed after a child has been placed shall indicate whether the child was released to such child's parent, guardian, or legal custodian or remains removed.

(d) DFCS shall promptly notify the parent, guardian, or legal custodian of the nature of the allegations forming the basis for taking a child into custody and, if such child is not released, of the time and place of the preliminary protective hearing. (Code 1981, § 15-11-132, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed

effective date note at the beginning of this chapter.

15-11-133. (Effective January 1, 2014) Removal of child from the home; protective custody.

(a) A child may be removed from his or her home, without the consent of his or her parents, guardian, or legal custodian:

(1) Pursuant to an order of the court under this article; or

(2) By a law enforcement officer or duly authorized officer of the court if a child is in imminent danger of abuse or neglect if he or she remains in the home.

(b) Upon removing a child from his or her home, a law enforcement officer or duly authorized officer of the court shall:

(1) Immediately deliver such child to a medical facility if such child is believed to suffer from a serious physical condition or illness which requires prompt treatment, and, upon delivery, shall promptly contact DFCS;

(2) Bring such child immediately before the juvenile court or promptly contact a juvenile court intake officer; and

(3) Promptly give notice to the court and such child's parents, guardian, or legal custodian that such child is in protective custody, together with a statement of the reasons for taking such child into protective custody.

(c) The removal of a child from his or her home by a law enforcement officer shall not be deemed an arrest.

(d) A law enforcement officer removing a child from his or her home has all the privileges and immunities of a law enforcement officer making an arrest.

(e) A law enforcement officer shall promptly contact a juvenile court intake officer for issuance of a court order once such officer has taken a child into protective custody and delivered such child to a medical facility.

(f) A juvenile court intake officer shall immediately determine if a child should be released, remain in protective custody, or be brought before the court upon being contacted by a law enforcement officer, duly authorized officer of the court, or DFCS that a child has been taken into protective custody. (Code 1981, § 15-11-133, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-134. (Effective January 1, 2014) Required findings justifying removal from the home.

(a) Any order authorizing the removal of a child from his or her home shall be based on a finding by the court that continuation in his or her home would be contrary to his or her welfare.

(b) Any order continuing a child's placement outside of the physical custody of his or her parent, guardian, or legal custodian shall be based on a finding by the court that return of such child to such custody would be contrary to his or her welfare.

(c) Findings under this Code section shall be made on an individualized case-by-case basis and shall be documented in the court's written

order. (Code 1981, § 15-11-134, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-135. (Effective January 1, 2014) Placement in eligible foster care.

(a) A child taken into custody shall not be placed in foster care prior to the hearing on a petition for dependency unless:

(1) Foster care is required to protect the child;

(2) The child has no parent, guardian, or legal custodian or other person able to provide supervision and care and return him or her to the court when required; or

(3) An order for the child's foster care has been made by the court.

(b) No child alleged to be or adjudicated as a dependent child shall be detained in any jail, adult lockup, or adult detention facility, nor shall a child be detained in a secure residential facility or nonsecure residential facility unless a child is also alleged to have committed a delinquent act or adjudicated to be a delinquent child and the court determines that the requirements for detention under Article 6 of this chapter are met.

(c) An alleged dependent child may be placed in foster care only in:

(1) A licensed or approved foster home or a home approved by the court which may be a public or private home or the home of the child's noncustodial parent or of a relative;

(2) A facility operated by a licensed child welfare agency; or

(3) A licensed shelter care facility approved by the court.

(d) The actual physical placement of a child pursuant to this Code section shall require the approval of the judge of the juvenile court or his or her designee.

(e) In any case in which a child is taken into protective custody of DFCS, such child shall be placed together with his or her siblings who are also in protective custody or DFCS shall include a statement in its report and case plan of continuing efforts to place the siblings together or why such efforts are not appropriate. If siblings are not placed together, DFCS shall provide for frequent visitation or other ongoing interaction between siblings, unless DFCS documents that such frequent visitation or other ongoing interaction would be contrary to the

safety or well-being of any of the siblings. (Code 1981, § 15-11-135, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

PART 4

PRELIMINARY PROTECTIVE HEARINGS

15-11-145. (Effective January 1, 2014) Preliminary protective hearing requirements.

(a) If an alleged dependent child is removed from his or her home and is not returned home, the preliminary protective hearing shall be held promptly and not later than 72 hours after such child is placed in foster care; provided, however, that if the 72 hour time frame expires on a weekend or legal holiday, the hearing shall be held on the next day which is not a weekend or legal holiday.

(b) Reasonable oral or written notice of the preliminary protective hearing, stating the time, place, and purpose of the hearing, shall be given to the child who is a party in such hearing and, if such person can be found, to his or her parent, guardian, or legal custodian.

(c) If an alleged dependent child's parent, guardian, or legal custodian has not been notified of the preliminary protective hearing and did not appear or waive appearance at such hearing and thereafter files an affidavit showing such facts, the court shall rehear the matter without unnecessary delay and shall order such child's release unless it appears from such hearing that such child's foster care is warranted or required.

(d) The following persons shall have the right to participate in the preliminary protective hearing:

(1) A child's parent, guardian, or legal custodian, unless such person cannot be located or fails to appear in response to the notice;

(2) A child's attorney and guardian ad litem if a guardian ad litem has been appointed;

(3) A child who was removed from his or her home, unless the court finds, after considering evidence of harm to such child that will result from such child's presence at the proceeding, that being present is not in such child's best interests;

(4) A parent's attorney if an attorney has been retained or appointed;

(5) The assigned DFCS caseworker; and

(6) The attorney for DFCS.

(e) The court may allow the following parties to be present at the preliminary protective hearing, if the court finds it is in the best interests of the child:

(1) Any relative or other persons who have demonstrated an ongoing commitment to a child with whom a child might be placed;

(2) DFCS employees involved in the case;

(3) An advocate as requested by an alleged dependent child's parent, guardian, or legal custodian; and

(4) Other persons who have knowledge of or an interest in the welfare of the child who is alleged to be dependent.

(f) At the commencement of a preliminary protective hearing, the court shall inform the parties of:

(1) The contents of the complaint in terms understandable to the parties;

(2) The nature of the proceedings in terms understandable to the parties; and

(3) The parties' due process rights, including the parties' right to an attorney and to an appointed attorney if they are indigent persons, the right to call witnesses and to cross-examine all witnesses, the right to present evidence, and the right to a trial by the court on the allegations in the complaint or petition.

(g) If a child is not released at the preliminary protective hearing, a petition for dependency shall be made and presented to the court within five days of such hearing. (Code 1981, § 15-11-145, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-146. (Effective January 1, 2014) Preliminary protective hearing; findings.

(a) At the preliminary protective hearing, the court shall determine:

(1) Whether there is probable cause to believe a child is a dependent child; and

(2) Whether protective custody of a child is necessary to prevent abuse or neglect pending the hearing on the dependency petition.

(b) The court:

(1) On finding that the complainant has not proved either of the required elements prescribed in subsection (a) of this Code section, shall dismiss the case and shall return the child before the court to his or her parent, guardian, or legal custodian;

(2) On finding that the complainant has not met the burden of proving that protective custody is necessary, shall return the child before the court to his or her parent, guardian, or legal custodian pending the hearing on the dependency petition; or

(3) On finding that the complainant has met the burden prescribed in subsection (a) of this Code section, may place the child before the court in the temporary custody of DFCS pending the hearing on the dependency petition.

(c) A court's order removing a child from his or her home shall be based upon a finding that:

(1) Continuation in his or her home would be contrary to such child's welfare; and

(2) Removal is in such child's best interests.

(d) The court shall make written findings as to whether DFCS has made reasonable efforts to prevent or eliminate the need for removal of a child from his or her home and to make it possible for such child to safely return home. If the court finds that no services were provided but that reasonable services would not have eliminated the need for protective custody, the court shall consider DFCS to have made reasonable efforts to prevent or eliminate the need for protective custody. The court shall include in the written findings a brief description of what preventive and reunification efforts were made by DFCS.

(e) In determining whether a child shall be removed or continued out of his or her home, the court shall consider whether reasonable efforts can prevent or eliminate the need to separate the family. The court shall make a written finding in every order of removal that describes why it is in the best interests of the child that he or she be removed from his or her home or continued in foster care.

(f) To aid the court in making the required written findings, DFCS shall present evidence to the court outlining the reasonable efforts made to prevent taking a child into protective custody and to provide services to make it possible for such child to safely return to his or her home and why protective custody is in the best interests of the child. (Code 1981, § 15-11-146, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

PART 5

DEPENDENCY PETITIONS

15-11-150. (Effective January 1, 2014) Authority to file petition.

A DFCS employee, a law enforcement officer, or any person who has actual knowledge of the abuse, neglect, or abandonment of a child or is informed of the abuse, neglect, or abandonment of a child that he or she believes to be truthful may make a petition alleging dependency. (Code 1981, § 15-11-150, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-151. (Effective January 1, 2014) Time limitations for filing petition.

(a) If a child was removed from his or her home, a petition alleging dependency shall be filed within five days of the preliminary protective hearing.

(b) If a child was not removed from his or her home or if a child was removed from his or her home but was released from protective custody at the preliminary protective hearing, a petition alleging dependency shall be filed within 30 days of the preliminary protective hearing.

(c) Upon a showing of good cause and notice to all parties, the court may grant a requested extension of time for filing a petition alleging dependency in accordance with the best interests of the child. The court shall issue a written order reciting the facts justifying the extension.

(d) If a petition alleging dependency is not filed within the required time frame, the complaint shall be dismissed without prejudice. (Code 1981, § 15-11-151, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-152. (Effective January 1, 2014) Contents of petition.

A petition alleging dependency shall be verified and may rely on information and belief and shall set forth plainly and with particularity:

(1) The facts which bring a child within the jurisdiction of the court, with a statement that it is in the best interests of the child and the public that the proceeding be brought;

(2) The name, date of birth, and residence address of the child named in the petition;

(3) The name and residence address of the parent, guardian, or legal custodian of the child named in the petition; or, if such child's parent, guardian, or legal custodian does not reside or cannot be found within the state or if such place of residence address is unknown, the name of any known adult relative of such child residing within the county or, if there is none, the known adult relative of such child residing nearest to the location of the court;

(4) Whether the child named in the petition is in protective custody and, if so, the place of his or her foster care and the time such child was taken into protective custody; and

(5) Whether any of the information required by this Code section is unknown. (Code 1981, § 15-11-152, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-153. (Effective January 1, 2014) Amendment of petition.

(a) The petitioner may amend the petition alleging dependency at any time:

(1) To cure defects of form; and

(2) Prior to the adjudication hearing, to include new allegations of fact or requests for adjudication.

(b) When the petition is amended after the initial service to include new allegations of fact or requests for adjudication, the amended petition shall be served on the parties and provided to the attorneys of record.

(c) The court shall grant the parties additional time to prepare only as may be required to ensure a full and fair hearing; provided, however, that when a child is in protective custody or in detention, an adjudication hearing shall not be delayed more than ten days beyond the time originally fixed for the hearing. (Code 1981, § 15-11-153, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

PART 6

SUMMONS AND SERVICE

15-11-160. (Effective January 1, 2014) Issuance of summons.

(a) The court shall direct the issuance of a summons to a child if such child is 14 years of age or older, such child's parent, guardian, or legal custodian, such child's attorney, such child's guardian ad litem, if any, and any other persons who appear to the court to be proper or necessary parties to the proceeding, requiring them to appear before the court at the time fixed to answer the allegations of the petition alleging dependency. A copy of the petition alleging dependency shall accompany the summons unless the summons is served by publication, in which case the published summons shall indicate the general nature of the allegations and where a copy of the petition alleging dependency can be obtained.

(b) A summons shall state that a party is entitled to an attorney in the proceedings and that the court will appoint an attorney if the party is an indigent person.

(c) The court may endorse upon the summons an order directing a child's parent, guardian, or legal custodian to appear personally at the hearing and directing the person having the physical custody or control of a child to bring such child to the hearing.

(d) A party other than a child may waive service of summons by written stipulation or by voluntary appearance at the hearing. (Code 1981, § 15-11-160, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-161. (Effective January 1, 2014) Service of summons.

(a) If a party to be served with a summons is within this state and can be found, the summons shall be served upon him or her personally as soon as possible and at least 72 hours before the adjudication hearing.

(b) If a party to be served is within this state and cannot be found but his or her address is known or can be ascertained with due diligence, the summons shall be served upon such party at least five days before the adjudication hearing by mailing him or her a copy by registered or certified mail or statutory overnight delivery, return receipt requested.

(c) If a party to be served is outside this state but his or her address is known or can be ascertained with due diligence, service of the

summons shall be made at least five days before the adjudication hearing either by delivering a copy to such party personally or by mailing a copy to him or her by registered or certified mail or statutory overnight delivery, return receipt requested.

(d) If, after due diligence, a party to be served with a summons cannot be found and such party's address cannot be ascertained, whether he or she is within or outside this state, the court may order service of the summons upon him or her by publication. The adjudication hearing shall not be earlier than five days after the date of the last publication.

(e)(1) Service by publication shall be made once a week for four consecutive weeks in the official organ of the county where the petition alleging dependency has been filed. Service shall be deemed complete upon the date of the last publication.

(2) When served by publication, the notice shall contain the names of the parties, except that the anonymity of a child shall be preserved by the use of appropriate initials, and the date the petition alleging dependency was filed. The notice shall indicate the general nature of the allegations and where a copy of the petition alleging dependency can be obtained and require the party to be served by publication to appear before the court at the time fixed to answer the allegations of the petition alleging dependency.

(3) Within 15 days after the filing of the order of service by publication, the clerk of court shall mail a copy of the notice, a copy of the order of service by publication, and a copy of the petition alleging dependency to the last known address of the party being served by publication.

(f) Service of the summons may be made by any suitable person under the direction of the court.

(g) The court may authorize the payment from county funds of the costs of service and of necessary travel expenses incurred by persons summoned or otherwise required to appear at the hearing. (Code 1981, § 15-11-161, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-162. (Effective January 1, 2014) Sanctions for failure to obey summons.

(a) In the event a parent, guardian, or legal custodian of a child named in a petition alleging dependency is brought willfully fails to appear personally at a hearing after being ordered to so appear or

willfully fails to bring such child to a hearing after being so directed, the court may issue an order against the person directing the person to appear before the court to show cause why he or she should not be held in contempt of court.

(b) If a parent, guardian, or legal custodian of a child named in a petition alleging dependency is brought fails to appear in response to an order to show cause, the court may issue a bench warrant directing that such parent, guardian, or legal custodian be brought before the court without delay to show cause why he or she should not be held in contempt and the court may enter any order authorized by and in accordance with the provisions of Code Section 15-11-31. (Code 1981, § 15-11-162, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed

effective date note at the beginning of this chapter.

15-11-163. (Effective January 1, 2014) Interlocutory order of disposition when summons served by publication.

(a) If service of summons upon a party is made by publication, the court may conduct a provisional hearing upon the allegations of the petition alleging dependency and enter an interlocutory order of disposition if:

- (1) The petition alleges dependency of a child;
- (2) The summons served upon any party:

(A) States that prior to the final hearing on such petition a provisional hearing will be held at a specified time and place;

(B) Requires the party who is served other than by publication to appear and answer the allegations of the petition alleging dependency at the provisional hearing;

(C) States further that findings of fact and orders of disposition made pursuant to the provisional hearing will become final at the final hearing unless the party served by publication appears at the final hearing; and

(D) Otherwise conforms to the requirements of Code Section 15-11-160; and

(3) A child named in a petition alleging dependency is brought is personally before the court at the provisional hearing.

(b) Findings of fact and orders of disposition shall have only interlocutory effect pending final hearing on the petition alleging dependency.

(c) If a party served by publication fails to appear at the final hearing on the petition alleging dependency, the findings of fact and interlocutory orders made shall become final without further evidence. If a party appears at the final hearing, the findings and orders shall be vacated and disregarded and the hearing shall proceed upon the allegations of such petition without regard to this Code section. (Code 1981, § 15-11-163, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

PART 7

PREADJUDICATION PROCEDURES

15-11-170. (Effective January 1, 2014) Discovery.

(a) In all cases under this article, any party shall, upon written request to the party having actual custody, control, or possession of the material to be produced, have full access to the following for inspection, copying, or photographing:

(1) The names and telephone numbers of each witness likely to be called to testify at the hearing by another party;

(2) A copy of any formal written statement made by the alleged dependent child or any witness that relates to the subject matter concerning the testimony of the witness that a party intends to call as a witness at the hearing;

(3) Except as otherwise provided in subsection (b) of this Code section, any scientific or other report which is intended to be introduced at any hearing or that pertains to physical evidence which is intended to be introduced;

(4) Any drug screen concerning the alleged dependent child or his or her parent, guardian, or legal custodian;

(5) Any case plan concerning the alleged dependent child or his or her parent, guardian, or legal custodian;

(6) Any visitation schedule related to the alleged dependent child;

(7) Photographs and any physical evidence which are intended to be introduced at any hearing;

(8) Copies of any police incident reports regarding an occurrence which forms part or all of the basis of the petition; and

(9) Any other relevant evidence not requiring consent or a court order under subsection (b) of this Code section.

(b) Upon presentation of a court order or written consent from the appropriate person or persons permitting access to the party having actual custody, control, or possession of the material to be produced, any party shall have access to the following for inspection, copying, or photographing:

(1) Any psychological, developmental, physical, mental or emotional health, or other assessments of the alleged dependent child or his or her family, parent, guardian, or legal custodian;

(2) Any school record concerning the alleged dependent child;

(3) Any medical record concerning the alleged dependent child;

(4) Transcriptions, recordings, and summaries of any oral statement of the alleged dependent child or of any witness, except child abuse reports that are confidential pursuant to Code Section 19-7-5 and work product of counsel;

(5) Any family team meeting report or multidisciplinary team meeting report concerning the alleged dependent child or his or her parent, guardian, or legal custodian;

(6) Supplemental police reports, if any, regarding an occurrence which forms part of all of the basis of the petition; and

(7) Immigration records concerning the alleged dependent child.

(c) If a party requests disclosure of information pursuant to subsection (a) or (b) of this Code section, it shall be the duty of such party to promptly make the following available for inspection, copying, or photographing to every other party:

(1) The names and last known addresses and telephone numbers of each witness to the occurrence which forms the basis of the party's defense or claim;

(2) Any scientific or other report which is intended to be introduced at the hearing or that pertains to physical evidence which is intended to be introduced;

(3) Photographs and any physical evidence which are intended to be introduced at the hearing; and

(4) A copy of any written statement made by any witness that relates to the subject matter concerning the testimony of the witness that the party intends to call as a witness.

(d) A request for discovery or reciprocal discovery shall be complied with promptly and not later than five days after the request is received or 72 hours prior to any hearing except when later compliance is made necessary by the timing of such request. If such request for discovery is

made fewer than 48 hours prior to an adjudicatory hearing, the discovery response shall be produced in a timely manner. If, subsequent to providing a discovery response in compliance with this Code section, the existence of additional evidence is found, it shall be promptly provided to the party making the discovery request.

(e) If a request for discovery or consent for release is refused, application may be made to the court for a written order granting discovery. Motions for discovery shall certify that a request for discovery or consent was made and was unsuccessful despite good faith efforts made by the requesting party. An order granting discovery shall require reciprocal discovery. Notwithstanding the provisions of subsection (a) or (b) of this Code section, the court may deny, in whole or in part, or otherwise limit or set conditions concerning a discovery response upon a sufficient showing by a person or entity to whom a request for discovery is made that disclosure of the information would:

(1) Jeopardize the safety of a party, witness, or confidential informant;

(2) Create a substantial threat of physical or economic harm to a witness or other person;

(3) Endanger the existence of physical evidence;

(4) Disclose privileged information; or

(5) Impede the criminal prosecution of a minor who is being prosecuted as an adult or the prosecution of an adult charged with an offense arising from the same transaction or occurrence.

(f) No deposition shall be taken of an alleged dependent child unless the court orders the deposition, under such conditions as the court may order, on the ground that the deposition would further the purposes of this part.

(g) If at any time during the course of the proceedings it is brought to the attention of the court that a person or entity has failed to comply with an order issued pursuant to this Code section, the court may grant a continuance, prohibit the party from introducing in evidence the information not disclosed, or enter such other order as the court deems just under the circumstances.

(h) Nothing contained in this Code section shall prohibit the court from ordering the disclosure of any information that the court deems necessary for proper adjudication.

(i) Any material or information furnished to a party pursuant to this Code section shall remain in the exclusive custody of the party and shall only be used during the pendency of the case and shall be subject to

such other terms and conditions as the court may provide. (Code 1981, § 15-11-170, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

PART 8

ADJUDICATION

15-11-180. (Effective January 1, 2014) Standard of proof.

The petitioner shall have the burden of proving the allegations of a dependency petition by clear and convincing evidence. (Code 1981, § 15-11-180, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-181. (Effective January 1, 2014) Adjudication hearing.

(a) The court shall fix a time for an adjudication hearing. If the alleged dependent child is in foster care, the hearing shall be scheduled for no later than ten days after the filing of the petition alleging dependency. If the alleged dependent child is not in foster care, the adjudication hearing shall be held no later than 60 days after the filing of the petition alleging dependency. If adjudication is not completed within 60 days from the date such child was taken into protective custody, the petition alleging dependency may be dismissed without prejudice.

(b) The following persons shall have the right to participate in the adjudication hearing:

(1) The parent, guardian, or legal custodian of the alleged dependent child, unless such person cannot be located or fails to appear in response to the notice;

(2) The attorney and guardian ad litem of the alleged dependent child;

(3) The alleged dependent child, unless the court finds, after considering evidence of harm to such child that will result from his or her presence at the proceeding, that being present is not in the child's best interests;

(4) The attorneys for the parent, guardian, or legal custodian of the alleged dependent child if attorneys have been retained or appointed;

- (5) The assigned DFCS caseworker; and
- (6) The attorney for DFCS.

(c) If the court finds it is in the best interests of the alleged dependent child, the court may allow the following to be present at the adjudication hearing:

- (1) Any relative or other persons who have demonstrated an ongoing commitment to a child alleged to be a dependent child with whom he or she might be placed;
- (2) DFCS employees involved with the case;
- (3) An advocate as requested by the parent, guardian, or legal custodian of the alleged dependent child; and
- (4) Other persons who have knowledge of or an interest in the welfare of such child.

(d) Except as provided in this subsection, the adjudication hearing shall be conducted in accordance with Title 24. Testimony or other evidence relevant to the dependency of a child or the cause of such condition may not be excluded on any ground of privilege, except in the case of:

- (1) Communications between a party and his or her attorney; and
- (2) Confessions or communications between a priest, rabbi, or duly ordained minister or similar functionary and his or her confidential communicant.

(e) After hearing the evidence, the court shall make and file specific written findings as to whether a child is a dependent child.

(f) If the court finds that a child is not a dependent child, it shall dismiss the petition alleging dependency and order such child discharged from foster care or other restriction previously ordered.

(g) If the court adjudicates a child as a dependent child, the court shall proceed immediately or at a postponed hearing to make a proper disposition of the case.

(h) If the court adjudicates a child as a dependent child, the court shall also make and file a finding whether such dependency is the result of substance abuse by such child's parent, guardian, or legal custodian.

(i) If the disposition hearing is held on the same day as the adjudication hearing, the court shall schedule the dates and times for the first periodic review hearing and for the permanency plan hearing. (Code 1981, § 15-11-181, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

PART 9

PREDISPOSITION SOCIAL STUDIES

15-11-190. (Effective January 1, 2014) Social study.

If the allegations of the petition alleging dependency are admitted or after an adjudication hearing the court has adjudicated a child as a dependent child, the court may direct that a written social study and report be made by a person designated by the court. (Code 1981, § 15-11-190, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-191. (Effective January 1, 2014) Contents of social study.

Each social study shall include, but not be limited to, a factual discussion of each of the following subjects:

(1) What plan, if any, for the return of the child adjudicated to be a dependent child to his or her parent and for achieving legal permanency for such child if efforts to reunify fail is recommended to the court;

(2) Whether the best interests of the child will be served by granting reasonable visitation rights to his or her other relatives in order to maintain and strengthen the child adjudicated to be a dependent child's family relationships;

(3) Whether the child adjudicated to be a dependent child has siblings under the court's jurisdiction, and, if so:

(A) The nature of the relationship between such child and his or her siblings;

(B) Whether the siblings were raised together in the same home and whether the siblings have shared significant common experiences or have existing close and strong bonds;

(C) Whether the child adjudicated to be a dependent child expresses a desire to visit or live with his or her siblings and whether ongoing contact is in such child's best interests;

(D) The appropriateness of developing or maintaining sibling relationships;

(E) If siblings are not placed together in the same home, why the siblings are not placed together and what efforts are being made to place siblings together or why those efforts are not appropriate;

(F) If siblings are not placed together, the frequency and nature of the visits between siblings; and

(G) The impact of the sibling relationship on the child adjudicated to be a dependent child's placement and planning for legal permanence;

(4) The appropriateness of any placement with a relative of the child adjudicated to be a dependent child; and

(5) Whether a caregiver desires and is willing to provide legal permanency for a child adjudicated to be a dependent child if reunification is unsuccessful. (Code 1981, § 15-11-191, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

PART 10

FAMILY REUNIFICATION DETERMINATION

15-11-200. (Effective January 1, 2014) DFCS report; case plan.

(a) Within 30 days of the date a child who is placed in DFCS custody is removed from his or her home and at each subsequent review of the disposition order, DFCS shall submit a written report to the court which shall either:

(1) Include a case plan for a reunification of the family; or

(2) Include a statement of the factual basis for determining that a plan for reunification is not appropriate.

(b) The report submitted by DFCS shall become a discrete part of the case record in a format determined by DFCS and shall be made available to a child who is placed in DFCS custody if such child is 14 years of age or older, his or her attorney, his or her guardian ad litem, if any, and the parent, guardian, or legal custodian of such child. The contents of the report shall be determined at a meeting to be held by DFCS in consultation with the parent, guardian, or legal custodian and child who was placed in DFCS custody, when appropriate. The parent, guardian, or legal custodian, the child who was placed in DFCS custody if such child is 14 years of age or older, his or her attorney, and guardian ad litem, if any, shall be given written notice of the meeting at least five days in advance of such meeting and shall be advised that the report

will be submitted to the court for consideration as an order of the court. The report submitted to the court shall also contain any dissenting recommendations of the judicial citizen review panel, if applicable, and any recommendations of the parent, guardian, or legal custodian of the child who was placed in DFCS custody, if such are available.

(c) If the court adopts a report that contains a case plan for reunification services, it shall be in effect until modification by the court. A case plan shall address each reason requiring removal of a child from his or her home and shall, at a minimum, comply with the requirements of Code Section 15-11-201.

(d) If the submitted DFCS report contains a proposed case plan for reunification services:

(1) DFCS shall provide the caregiver, the foster parent, and any preadoptive parent or relative providing care for the child who was placed in DFCS custody with a copy of those portions of the court approved case plan that involve the permanency goal and the services to be provided to the child;

(2) A copy of the DFCS report and case plan shall be delivered to the parent, guardian, or legal custodian by United States mail, e-mail, or hand delivery at the same time the report and case plan are transmitted to the court, along with written notice that such report will be considered by the court without a hearing unless, within five days from the date the copy of such report and case plan were delivered, the parent, guardian, or legal custodian of the child who was placed in DFCS custody requests a hearing before the court to review such report and case plan; and

(3) If no hearing is requested, the court shall enter a disposition order or supplemental order incorporating all elements of the case plan for reunification services which the court finds essential to reunification, specifying what shall be accomplished by all parties before reunification of the family can be achieved.

(e) When DFCS recommends that reunification services are not appropriate and should not be allowed, the DFCS report shall address each reason requiring removal of a child from his or her home and shall contain at least the following:

(1) The purpose for which the child in DFCS custody was placed in foster care, including a statement of the reasons why such child cannot be adequately and safely protected at his or her home and the harm which may occur if such child remains in his or her home and a description of the services offered and the services provided to prevent removal of such child from his or her home;

(2) A clear statement describing all of the reasons supporting a finding that reunification of a child with his or her parent will be

detrimental to such child and that reunification services therefore need not be provided, including specific findings as to whether any of the grounds for terminating parental rights exist; and

(3) The statements, provisions, and requirements found in paragraphs (11) and (12) of subsection (b) of Code Section 15-11-201. (Code 1981, § 15-11-200, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-201. (Effective January 1, 2014) DFCS case plan; contents.

(a) A case plan shall be designed to achieve placement in the most appropriate, least restrictive, and most family-like setting available and in close proximity to the alleged dependent child's parent's home, consistent with the best interests and special needs of such child, and shall consider the placement's proximity to the school in which such child is enrolled at the time of placement.

(b) A case plan shall be developed by DFCS and the parent, guardian, or legal custodian of the alleged dependent child and, when appropriate, such child. A case plan shall include, but not be limited to, all of the following:

(1) A description of the circumstances that resulted in such child being placed under the jurisdiction of the court and in foster care;

(2) An assessment of such child's and his or her family's strengths and needs and the type of placement best equipped to meet those needs;

(3) A description of the type of home or institution in which such child is to be placed, including a discussion of the safety and appropriateness of the placement;

(4) Specific time-limited goals and related activities designed to enable the safe return of such child to his or her home, or, in the event that return to his or her home is not possible, activities designed to result in permanent placement or emancipation;

(5) Assignment of specific responsibility for accomplishing the planned activities;

(6) The projected date of completion of the case plan objectives;

(7) The date time-limited services will be terminated;

(8) A schedule of visits between such child and his or her siblings and other appropriate family members and an explanation if no visits are scheduled;

(9) When placement is made in a foster family home, group home, or other child care institution that is either a substantial distance from the home of such child's parent, guardian, or legal custodian or out of state, the case plan shall specify the reasons why the placement is the most appropriate and is in the best interests of the child;

(10) When an out-of-state group home placement is recommended or made, the case plan shall comply with Code Section 39-4-4, the Interstate Compact on the Placement of Children. In addition, documentation of the recommendation of the multidisciplinary team and the rationale for such particular placement shall be included. The case plan shall also address what in-state services or facilities were used or considered and why they were not recommended;

(11) If applicable, a statement that reasonable efforts have been made and a requirement that reasonable efforts shall be made for so long as such child remains in the custody of the department:

(A) To place siblings removed from their home in the same foster care, kinship care, guardianship, or adoptive placement, unless DFCS documents that such a joint placement would be contrary to the safety or well-being of any of the siblings; and

(B) In the case of siblings removed from their home who are not so jointly placed, for frequent visitation or other ongoing interaction between the siblings, unless DFCS documents that such frequent visitation or other ongoing interaction would be contrary to the safety or well-being of any of the siblings;

(12) Provisions ensuring the educational stability of such child while in foster care, including:

(A) An assurance that the placement of such child in foster care takes into account the appropriateness of the current educational setting and the proximity to the school in which such child is enrolled at the time of placement;

(B) An assurance that the state agency has coordinated with appropriate local educational agencies to ensure that such child remains in the school in which such child is enrolled at the time of placement; or

(C) If remaining in such school is not in the best interests of the child, an assurance by DFCS that DFCS and the local educational agencies have cooperated to assure the immediate and appropriate enrollment in a new school, with all of the educational records of such child provided to such new school;

(13) An account of health and education information about such child including school records, immunizations, known medical prob-

lems, any known medications he or she may be taking, names and addresses of his or her health and educational providers; such child's grade level performance; assurances that such child's placement in foster care takes into account proximity to the school in which he or she was enrolled at the time of placement; and other relevant health and educational information;

(14) A recommendation for a permanency plan for such child. If, after considering reunification, adoptive placement, or permanent guardianship, DFCS recommends placement in another planned permanent living arrangement, the case plan shall include documentation of a compelling reason or reasons why termination of parental rights is not in the child's best interests. For purposes of this paragraph, a "compelling reason" shall have the same meaning as in paragraph (2) of subsection (b) of Code Section 15-11-233;

(15) A statement that the parent, guardian, or legal custodian of such child and the child have had an opportunity to participate in the development of the case plan, to review the case plan, to sign the case plan, and to receive a copy of the plan, or an explanation about why such persons were not able to participate or sign the case plan;

(16) A requirement that the DFCS case manager and staff and, as appropriate, other representatives of such child provide him or her with assistance and support in developing a transition plan that is personalized at the direction of such child, including specific options on housing, health insurance, education, local opportunities for mentors and continuing support services, and work force supports and employment services, and is as detailed as such child may elect. The transition plan shall be completed in the 90 day period:

(A) Immediately prior to the date on which such child will attain 18 years of age; or

(B) If such child remains in the care of DFCS past his or her eighteenth birthday, before his or her planned exit from DFCS care.

(17) For such child in out-of-home care who is 14 years of age or older, a written description of the programs and services which will help him or her prepare for the transition from foster care to independent living; and

(18) The identity of the person within DFCS or other agency who is directly responsible for ensuring that the case plan is implemented. (Code 1981, § 15-11-201, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-202. (Effective January 1, 2014) Reasonable efforts by DFCS to preserve or reunify families.

(a) Except as provided in subsection (a) of Code Section 15-11-203, reasonable efforts shall be made to preserve or reunify families:

(1) Prior to the placement of an alleged dependent child in DFCS custody to prevent the need for removing him or her from his or her home; or

(2) To eliminate the need for removal and make it possible for a child alleged to be or adjudicated as a dependent child to return safely to his or her home at the earliest possible time.

(b) In determining the type of reasonable efforts to be made to a child alleged to be or adjudicated as a dependent child and in making such reasonable efforts, such child's health and safety shall be the paramount concern.

(c) Appropriate services to meet the needs of a child alleged to be or adjudicated as a dependent child and his or her family may include those provided by DFCS and other services available in the community.

(d) The court shall be required to review the appropriateness of DFCS's reasonable efforts at each stage of the proceedings.

(e)(1) At the preliminary protective hearing, DFCS has the burden of demonstrating that:

(A) It has made reasonable efforts to prevent placement of an alleged dependent child in foster care;

(B) There are no appropriate services or efforts which could allow an alleged dependent child to safely remain in the home given the particular circumstances of such child and his or her family at the time of his or her removal and so the absence of such efforts was justifiable; or

(C) Reasonable efforts to prevent placement and to reunify an alleged dependent child with his or her family are not required because of the existence of one or more of the circumstances enumerated in subsection (a) of Code Section 15-11-203.

(2) At the adjudication hearing, DFCS has the burden of demonstrating that:

(A) It has made reasonable efforts to eliminate the need for removal of an alleged dependent child from his or her home and to reunify such child with his or her family at the earliest possible time; or

(B) Reasonable efforts to prevent placement and to reunify an alleged dependent child with his or her family are not required

because of the existence of one or more of the circumstances enumerated in subsection (a) of Code Section 15-11-203.

(3) At each other hearing, DFCS has the burden of demonstrating that:

(A) It has made reasonable efforts to eliminate the need for removal of a child alleged to be or adjudicated as a dependent child from his or her home and to reunify such child with his or her family at the earliest possible time; or

(B) It has made reasonable efforts to finalize an alternative permanent home for a child alleged to be or adjudicated as a dependent child.

(f) When determining whether reasonable efforts have been made, the court shall consider whether services to the child alleged to be or adjudicated as a dependent child and his or her family were:

- (1) Relevant to the safety and protection of such child;
- (2) Adequate to meet the needs of such child and his or her family;
- (3) Culturally and linguistically appropriate;
- (4) Available and accessible;
- (5) Consistent and timely; and
- (6) Realistic under the circumstances.

(g) A finding that reasonable efforts have not been made shall not preclude the entry of an order authorizing a child alleged to be or adjudicated as a dependent child's placement when the court finds that placement is necessary for the protection of such child.

(h) When efforts to prevent the need for a child alleged to be or adjudicated as a dependent child's placement were precluded by an immediate threat of harm to such child, the court may make a finding that reasonable efforts were made if it finds that the placement of such child in the absence of such efforts was justifiable.

(i) Reasonable efforts to place a child adjudicated as a dependent child for adoption or with a guardian or legal custodian may be made concurrently with reasonable efforts to reunify. When DFCS decides to concurrently make reasonable efforts for both reunification and permanent placement away from the parent, guardian, or legal custodian of a child adjudicated as a dependent child, DFCS shall disclose its decision and both plans to all parties and obtain approval from the court. When DFCS proceeds on both plans, the court's review of reasonable efforts shall include efforts under both plans.

(j) An order placing or continuing the placement of a child alleged to be or adjudicated as a dependent child in DFCS custody shall contain, but not be limited to, written findings of facts stating:

(1) That such child's continuation in or return to his or her home would be contrary to his or her welfare;

(2) Whether reasonable efforts have been made to prevent or eliminate the need for placement of such child, unless the court has determined that such efforts are not required or shall cease; and

(3) Whether reasonable efforts should continue to be made to prevent or eliminate the need for placement of such child, unless the court has previously determined that such efforts are not required or shall cease. (Code 1981, § 15-11-202, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed

effective date note at the beginning of this chapter.

15-11-203. (Effective January 1, 2014) When reasonable efforts by DFCS not required.

(a) The court may direct that reasonable efforts to eliminate the need for placement of an alleged dependent child shall not be required or shall cease if the court determines and makes written findings of fact that a parent of an alleged dependent child:

(1) Has subjected his or her child to aggravated circumstances;

(2) Has been convicted of the murder of another child of such parent;

(3) Has been convicted of the voluntary manslaughter of another child of such parent;

(4) Has been convicted of aiding or abetting, attempting, conspiring, or soliciting to commit murder or voluntary manslaughter of another child of such parent;

(5) Has been convicted of committing a felony assault that results in serious bodily injury to the child or another child of such parent;

(6) Has been convicted of rape, sodomy, aggravated sodomy, child molestation, aggravated child molestation, incest, sexual battery, or aggravated sexual battery of the alleged dependent child or another child of the parent;

(7) Is required to register as a sex offender and that preservation of a parent-child relationship is not in the alleged dependent child's best interests; or

(8) Has had his or her rights to a sibling of the alleged dependent child terminated involuntarily and the circumstances leading to such termination of parental rights to that sibling have not been resolved.

(b) If the court determines that one or more of the circumstances enumerated in subsection (a) of this Code section exist or DFCS has submitted a written report to the court which does not contain a plan for reunification services, then:

(1) A permanency plan hearing shall be held for a child adjudicated as a dependent child within 30 days; and

(2) Reasonable efforts shall be made to place a child adjudicated as a dependent child in a timely manner in accordance with the permanency plan and to complete whatever steps are necessary to finalize the permanent placement of such child. (Code 1981, § 15-11-203, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-204. (Effective January 1, 2014) Nonreunification hearing.

(a) If the DFCS report does not contain a plan for reunification services, the court shall hold a nonreunification hearing to review the report and the determination that a plan for reunification services is not appropriate.

(b) The nonreunification hearing shall be held no later than 30 days from the time the DFCS report is filed. Notice of the nonreunification hearing shall be provided, by summons, to the child adjudicated as a dependent child if he or she is 14 years of age or older, his or her parent, guardian, or legal custodian, attorney, guardian ad litem, if any, and specified nonparties entitled to notice.

(c) At the nonreunification hearing:

(1) DFCS shall notify the court whether and when it intends to proceed with termination of parental rights; and

(2) The court shall also hold a permanency plan hearing, at which the court shall consider in-state and out-of-state permanent placement options for the child adjudicated as a dependent child and shall incorporate a permanency plan for such child in its order.

(d) DFCS shall have the burden of demonstrating by clear and convincing evidence that a reunification plan is not appropriate considering the health and safety of the child adjudicated as a dependent child and such child's need for permanence. There shall be a presumption that reunification is detrimental to a child adjudicated as a dependent

child and reunification services should not be provided if the court finds by clear and convincing evidence that:

- (1) Such child’s parent has unjustifiably failed to comply with a previously ordered plan designed to reunite the family;
- (2) An alleged dependent child has been removed from his or her home on at least two previous occasions and reunification services were made available on those occasions;
- (3) A ground for terminating parental rights exists; or
- (4) Any of the circumstances set out in subsection (a) of Code Section 15-11-203 exist, making it unnecessary to provide reasonable efforts to reunify.

(e) If the court has entered an order finding that reasonable efforts to reunify a child adjudicated as a dependent child with his or her family are not required but the court finds further that referral for termination of parental rights and adoption is not in the best interests of such child, the court may, upon proper petition, place such child in the custody of a permanent guardian pursuant to the provisions of this article. (Code 1981, § 15-11-204, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

PART 11

DISPOSITION

15-11-210. (Effective January 1, 2014) Disposition hearing.

- (a) If not held in conjunction with an adjudication hearing, a disposition hearing shall be held and completed within 30 days after the conclusion of an adjudication hearing.
- (b) The court may consider any evidence, including hearsay evidence, that the court finds to be relevant, reliable, and necessary to determine the needs of a child adjudicated as a dependent child and the most appropriate disposition.
- (c) Before determining the appropriate disposition, the court shall receive in evidence:
 - (1) The social study report, if applicable, made by DFCS and the child adjudicated as a dependent child’s proposed written case plan. The social study report and case plan shall be filed with the court not less than 48 hours before the disposition hearing;

(2) Any study or evaluation made by a guardian ad litem appointed by the court;

(3) Any psychological, medical, developmental, or educational study or evaluation of the child adjudicated as a dependent child; and

(4) Other relevant and material evidence as may be offered, including, but not limited to, the willingness of the caregiver to provide legal permanency for the child adjudicated as a dependent child if reunification is unsuccessful.

(d) Prior to a disposition hearing, and upon request, the parties and their attorneys shall be afforded an opportunity to examine any written reports received by the court.

(e)(1) Portions of written reports received by the court which are not relied on by the court in reaching its decision, which if revealed would be prejudicial to the interests of any party to the proceeding, or which reveal confidential sources, may be withheld in the court's discretion.

(2) Parties and their attorneys shall be given the opportunity to controvert written reports received by the court and to cross-examine individuals making such reports.

(f) At the conclusion of the disposition hearing, the court shall set the time and date for the first periodic review hearing and the permanency plan hearing. (Code 1981, § 15-11-210, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-211. (Effective January 1, 2014) Relative search by DFCS.

(a) A diligent search shall be initiated at the outset of a case under this article and shall be conducted throughout the duration of a case, when appropriate.

(b) A diligent search shall include at a minimum:

(1) Interviews with the child's parent during the course of an investigation, while child protective services are provided, and while such child is in care;

(2) Interviews with the child;

(3) Interviews with identified relatives throughout the case;

(4) Interviews with any other person who is likely to have information about the identity or location of the person being sought;

(5) Comprehensive searches of data bases available to DFCS including, but not limited to, searches of employment, residence,

utilities, vehicle registration, child support enforcement, law enforcement, corrections records, and any other records likely to result in identifying and locating the person being sought;

(6) Appropriate inquiry during the course of hearings in the case; and

(7) Any other reasonable means that are likely to identify relatives or other persons who have demonstrated an ongoing commitment to the child.

(c) A diligent search shall be completed by DFCS before final disposition.

(d) All adult relatives of the alleged dependent child identified in a diligent search required by this Code section, subject to exceptions due to family or domestic violence, shall be provided with notice:

(1) Specifying that an alleged dependent child has been or is being removed from his or her parental custody;

(2) Explaining the options a relative has to participate in the care and placement of the alleged dependent child and any options that may be lost by failing to respond to the notice;

(3) Describing the process for becoming an approved foster family home and the additional services and supports available for children placed in approved foster homes; and

(4) Describing any financial assistance for which a relative may be eligible.

(e) The diligent search required by this Code section and the notification required by subsection (d) of this Code section shall be completed, documented in writing, and filed with the court within 30 days from the date on which the alleged dependent child was removed from his or her home.

(f) After the completion of the diligent search required by this Code section, DFCS shall have a continuing duty to search for relatives or other persons who have demonstrated an ongoing commitment to a child and with whom it may be appropriate to place the alleged dependent child until such relatives or persons are found or until such child is placed for adoption unless the court excuses DFCS from conducting a diligent search. (Code 1981, § 15-11-211, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed

effective date note at the beginning of this chapter.

15-11-212. (Effective January 1, 2014) Disposition of dependent child.

(a) The court may make any of the following orders of disposition or a combination of those best suited to the protection and physical, emotional, mental, and moral welfare of a child adjudicated as a dependent child:

(1) Permit such child to remain with his or her parent, guardian, or legal custodian subject to conditions and limitations as the court prescribes, including supervision as directed by the court for the protection of such child;

(2) Grant or transfer temporary legal custody to any of these persons or entities:

(A) Any individual, including a biological parent, who, after study by the probation officer or other person or agency designated by the court, is found by the court to be qualified to receive and care for such child;

(B) An agency or other private organization licensed or otherwise authorized by law to receive and provide care for such child;

(C) Any public agency authorized by law to receive and provide care for such child; provided, however, that for the purpose of this Code section, the term "public agency" shall not include DJJ; or

(D) An individual in another state with or without supervision by an appropriate officer pursuant to the requirements of Code Section 39-4-4, the Interstate Compact on the Placement of Children;

(3) Transfer jurisdiction over such child in accordance with the requirements of Code Section 39-4-4, the Interstate Compact on the Placement of Children;

(4) Order such child and his or her parent, guardian, or legal custodian to participate in counseling or in counsel and advice as determined by the court. Such counseling and counsel and advice may be provided by the court, court personnel, probation officers, professional counselors or social workers, psychologists, physicians, physician assistants, qualified volunteers, or appropriate public, private, or volunteer agencies as directed by the court and shall be designed to assist in deterring future conditions of dependency or other conduct or conditions which would be harmful to a child or society;

(5) Order the parent, guardian, or legal custodian of such child to participate in a court approved educational or counseling program

designed to contribute to the ability of such parent, guardian, or legal custodian to provide proper parental care and supervision of such child, including, but not limited to, parenting classes;

(6) Order DFCS to implement and such child's parent, guardian, or legal custodian to cooperate with any plan approved by the court; or

(7) Order temporary child support for such child to be paid by that person or those persons determined to be legally obligated to support such child. In determining such temporary child support, the court shall apply the child support guidelines provided in Code Section 19-6-15 and the implementation and any review of the order shall be held as provided in Code Section 19-6-15. Where there is an existing order of a superior court or other court of competent jurisdiction, the court may order the child support obligor in the existing order to make payments to such child's caretaker on a temporary basis but shall not otherwise modify the terms of the existing order. A copy of the juvenile court's order shall be filed in the clerk's office of the court that entered the existing order. Temporary child support orders entered pursuant to this paragraph shall be enforceable by the court's contempt powers so long as the court is entitled to exercise jurisdiction over the dependency case.

(b) The transfer of temporary legal custody may be subject to conditions and limitations the court may prescribe. Such conditions and limitations shall include a provision that the court shall approve or direct the return of the physical custody of a child adjudicated as a dependent child to his or her parent, guardian, or legal custodian either upon the occurrence of specified circumstances or at the direction of the court. The return of physical custody of a child adjudicated as a dependent child to his or her parent, guardian, or legal custodian may be made subject to conditions and limitations the court may prescribe, including, but not limited to, supervision for the protection of such child.

(c) A child adjudicated as a dependent child shall not be committed to or confined in an institution or other facility designed or operated for the benefit of delinquent children unless such child is also adjudicated to be a delinquent child and such child's detention is warranted under the requirements of Article 6 of this chapter.

(d) After transferring temporary legal custody of a child adjudicated as a dependent child to DFCS, the court may at any time conduct sua sponte a judicial review of the current placement plan being provided to such child. After its review, the court may order DFCS to comply with the current placement plan, order DFCS to devise a new placement plan, or make any other order relative to placement or custody outside DFCS as the court finds to be in the best interests of such child.

Placement or a change of custody by the court outside DFCS shall relieve DFCS of further responsibility for such child except for any provision of services ordered by the court to ensure the continuation of reunification services to such child's family when appropriate.

(e) A court shall not be required to make an order of disposition regarding a child who is discharged from a facility in which such child was hospitalized or habilitated pursuant to Chapter 3, 4, or 7 of Title 37 unless such child is to be discharged into the physical custody of any person who had such custody when the court made its most recent adjudication that the child was a dependent child.

(f) If a child is adjudicated as a dependent child and the dependency is found to have been the result of substance abuse by his or her parent, guardian, or legal custodian and the court orders transfer of temporary legal custody of such child, the court shall be authorized to further order that legal custody of such child may not be transferred back to his or her parent, guardian, or legal custodian unless such parent, guardian, or legal custodian undergoes substance abuse treatment and random substance abuse screenings and those screenings remain negative for a period of no less than six consecutive months.

(g) If the court finds that DFCS preventive or reunification efforts have not been reasonable but that further efforts could not permit a child adjudicated as a dependent child to safely remain at home, the court may nevertheless authorize or continue the removal of such child.

(h) When the case plan requires a concurrent permanency plan, the court shall review the reasonable efforts of DFCS to recruit, identify, and make a placement in a home in which a relative of a child adjudicated as a dependent child, foster parent, or other persons who have demonstrated an ongoing commitment to the child has agreed to provide a legally permanent home for such child in the event reunification efforts are not successful. (Code 1981, § 15-11-212, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-213. (Effective January 1, 2014) Disposition orders; considerations.

Any order of disposition shall contain written findings of fact to support the disposition and case plan ordered. Before making an order of disposition, the court shall consider the following:

(1) Why the best interests and safety of a child adjudicated as a dependent child are served by the disposition and case plan ordered, including but not limited to:

(A) The interaction and interrelationship of such child with his or her parent, siblings, and any other person who may significantly affect the child's best interests;

(B) Such child's adjustment to his or her home, school, and community;

(C) The mental and physical health of all individuals involved;

(D) The wishes of such child as to his or her placement;

(E) The wishes of such child's parent, guardian, or legal custodian as to such child's custody;

(F) Whether there exists a relative of such child or other individual who, after study by DFCS, is found to be qualified to receive and care for such child; and

(G) The ability of a parent, guardian, or legal custodian of a child adjudicated as a dependent child to care for such child in the home so that no harm will result to such child;

(2) The availability of services recommended in the case plan;

(3) What alternative dispositions or services under the case plan were considered by the court and why such dispositions or services were not appropriate in the instant case;

(4) The appropriateness of the particular placement made or to be made by the placing agency; and

(5) Whether reasonable efforts were made to prevent or eliminate the necessity of a child adjudicated as a dependent child's removal and to reunify his or her family after removal from the custody of his or her family unless reasonable efforts were not required. The court's findings should include a brief description of what preventive and reunification efforts were made and why further efforts could not have prevented or eliminated the necessity of such removal. (Code 1981, § 15-11-213, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed

effective date note at the beginning of this chapter.

15-11-214. (Effective January 1, 2014) Duration of disposition orders.

(a) An order of disposition in a dependency proceeding shall continue in force until the purposes of the order have been accomplished.

(b) The court may terminate an order of disposition of a child adjudicated as a dependent child on or without an application of a party

if it appears to the court that the purposes of the order have been accomplished.

(c) Unless a child remains in DFCS care or continues to receive services from DFCS, when a child adjudicated as a dependent child reaches 18 years of age, all orders affecting him or her then in force terminate and he or she shall be discharged from further obligation or control. (Code 1981, § 15-11-214, enacted by Ga. L. 2013, p. 294, § 1-1/1B 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-215. (Effective January 1, 2014) Notice of change in placement hearings.

(a) Not less than five days in advance of any placement change, DFCS shall notify the court, a child who is 14 years of age or older, the child's parent, guardian, or legal custodian, the person or agency with physical custody of the child, the child's attorney, the child's guardian ad litem, if any, and any other attorney of record of such change in the location of the child's placement while the child is in DFCS custody.

(b) If a child's health or welfare may be endangered by any delay in changing his or her placement, the court and all attorneys of record shall be notified of such placement change within 24 hours of such change.

(c) A child adjudicated as a dependent child who is 14 years of age or older, his or her parent, guardian, or legal custodian, the person or agency with physical custody of the child, such child's attorney, such child's guardian ad litem, if any, and any attorney of record may request a hearing pertaining to such child's case plan or the permanency plan in order for the court to consider the change in the location of such child's placement and any changes to the case plan or permanency plan resulting from such child's change in placement location. The hearing shall be held within five days of receiving notice of a change in the location of such child's placement and prior to any such placement change, unless such child's health or welfare may be endangered by any delay in changing such child's placement.

(d) At the hearing to consider a child adjudicated as a dependent child's case plan and permanency plan, the court shall consider the case plan and permanency plan recommendations made by DFCS, including a recommendation as to the location of the placement of such child, and shall make findings of fact upon which the court relied in determining to reject or accept the case plan or permanency plan and the recom-

mendations made by DFCS, including the location of such child's placement.

(e) If the court rejects DFCS recommendations, the court shall demonstrate that DFCS recommendations were considered and explain why it did not follow such recommendations. If the court rejects the DFCS case plan and permanency plan recommendations, including the change in the location of the placement of a child adjudicated as a dependent child, the court may order DFCS to devise a new case plan and permanency plan recommendation, including a new recommendation as to the location of such child within the resources of the department, or make any other order relative to placement or custody outside the department as the court finds to be in the best interests of such child and consistent with the policy that children in DFCS custody should have stable placements.

(f) Placement or a change of legal custody by the court outside DFCS shall relieve DFCS of further responsibility for a child adjudicated as a dependent child except for any provision of services ordered by the court to ensure the continuation of reunification services to such child's family when appropriate. (Code 1981, § 15-11-215, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed

effective date note at the beginning of this chapter.

15-11-216. (Effective January 1, 2014) Periodic review hearing.

(a) All cases of children in DFCS custody shall be initially reviewed within 75 days following a child adjudicated as a dependent child's removal from his or her home and shall be conducted by the court. An additional periodic review shall be held within four months following the initial review and shall be conducted by the court or by judicial citizen review panels established by the court, as the court directs, meeting such standards and using such procedures as are established by court rule by the Supreme Court, with the advice and consent of the Council of Juvenile Court Judges. The court shall have the discretion to schedule any subsequent review hearings as necessary.

(b) At any periodic review hearing, the paramount concern shall be a child adjudicated as a dependent child's health and safety.

(c) At the initial 75 day periodic review, the court shall approve the completion of the relative search, schedule the subsequent four-month review to be conducted by the court or a citizen judicial review panel, and shall determine:

(1) Whether a child adjudicated as a dependent child continues to be a dependent child;

(2) Whether the existing case plan is still the best case plan for such child and his or her family and whether any changes need to be made to the case plan, including whether a concurrent case plan for nonreunification is appropriate;

(3) The extent of compliance with the case plan by all participants;

(4) The appropriateness of any recommended changes to such child's placement;

(5) Whether appropriate progress is being made on the permanency plan;

(6) Whether all legally required services are being provided to a child adjudicated as a dependent child, his or her foster parents if there are foster parents, and his or her parent, guardian, or legal custodian;

(7) Whether visitation is appropriate and, if so, approve and establish a reasonable visitation schedule consistent with the age and developmental needs of a child adjudicated as a dependent child;

(8) Whether, for a child adjudicated as a dependent child who is 14 years of age or older, the services needed to assist such child to make a transition from foster care to independent living are being provided; and

(9) Whether reasonable efforts continue to be made to prevent or eliminate the necessity of such child's removal from his or her home and to reunify the family after removal of a child adjudicated as a dependent child, unless reasonable efforts were not required.

(d) If at any review subsequent to the initial 75 day review the court finds that there is a lack of substantial progress towards completion of the case plan, the court shall order DFCS to develop a case plan for nonreunification or a concurrent case plan contemplating nonreunification.

(e) At the time of each review of a child adjudicated as a dependent child in DFCS custody, DFCS shall notify the court whether and when it intends to proceed with the termination of parental rights. (Code 1981, § 15-11-216, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-217. (Effective January 1, 2014) Periodic review by judicial citizen review panel.

(a) In the event the periodic review of a case is conducted by a judicial citizen review panel, the panel shall transmit its report and that of DFCS, including its findings and recommendations together with DFCS proposed revised plan for reunification or other permanency plan, if necessary, to the court and the parent within five days after the review.

(b) DFCS shall provide the caregiver of a child adjudicated as a dependent child, his or her foster parents if there are foster parents, and any preadoptive parents or relatives providing care for such child with a copy of those portions of the report of the judicial citizen review panel that involve the recommended permanency goal and the recommended services to be provided to such child.

(c) Any party may request a hearing on the proposed revised plan in writing within five days after receiving a copy of the plan.

(d) If no hearing is requested or scheduled by the court on its own motion, the court shall review the proposed revised plan and enter a supplemental order incorporating the revised plan as part of its disposition in the case. In the event that a hearing is held, the court shall, after hearing evidence, enter a supplemental order incorporating all elements that the court finds essential in the proposed revised plan.

(e) Notwithstanding subsections (c) and (d) of this Code section, if the judicial citizen review panel finds that there is a lack of substantial progress towards completion of the case plan, the court shall schedule a hearing within 30 days of such finding to determine whether a case plan for nonreunification is appropriate.

(f) If the judicial citizen review panel determines that a parent of a child adjudicated as a dependent child has unjustifiably failed to comply with the ordered plan designed to reunite such child's family and that such failure is significant enough to warrant consideration of the parent's termination of parental rights, the panel may make a recommendation to DFCS and the attorney for such child that a petition for termination of parental rights should be prepared. (Code 1981, § 15-11-217, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed

effective date note at the beginning of this chapter.

15-11-218. (Effective January 1, 2014) Content of orders following periodic review hearings or reports by judicial citizen review panels.

(a) At the conclusion of a periodic review hearing, or upon review of a report by a judicial citizen review panel, the court shall issue written findings of fact that include:

(1) Why a child adjudicated as a dependent child continues to be a dependent child;

(2) Whether the existing case plan is still the best case plan for a child adjudicated as a dependent child and his or her family and whether any changes need to be made to the case plan including whether a concurrent case plan for nonreunification is appropriate;

(3) The extent of compliance with the case plan by all participants;

(4) The basis for any changes to the placement of a child adjudicated as a dependent child;

(5) Whether visitation is or continues to be appropriate;

(6) A description of progress being made on the permanency plan;

(7) Whether all legally required services are being provided to a child adjudicated as a dependent child, his or her foster parents if there are foster parents, and his or her parent, guardian, or legal custodian;

(8) Whether, for a child adjudicated as a dependent child who is 14 years of age or older, the services needed to assist such child to make a transition from foster care to independent living are being provided; and

(9) Whether reasonable efforts continue to be made to prevent or eliminate the necessity of the removal of a child adjudicated as a dependent child and to reunify his or her family after removal, unless reasonable efforts were not required.

(b) At the conclusion of a periodic review hearing, or upon review of a report by a judicial citizen review panel, the court shall order one of the following dispositions:

(1) Return a child adjudicated as a dependent child to his or her parent, guardian, or legal custodian's home with or without court imposed conditions;

(2) Allow a child adjudicated as a dependent child to continue in the current custodial placement because the current placement is appropriate for such child's needs;

(3) Allow a child adjudicated as a dependent child to continue in the current custodial placement although the current placement is no longer appropriate for such child's needs and direct DFCS to devise another plan which shall:

(A) Be submitted within ten days for court approval;

(B) Be furnished to all parties after court approval of the revised plan; and

(C) Be provided to the caregiver of a child adjudicated as a dependent child, his or her foster parents if there are foster parents, and any preadoptive parents or relative providing care for such child with a copy of those portions of the court approved revised plan that involve the permanency goal and the services to be provided to such child; or

(4) Make additional orders regarding the treatment plan or placement of a child adjudicated as a dependent child to protect such child's best interests if the court determines DFCS has failed in implementing any material provision of the case plan or abused its discretion in the placement or proposed placement of such child. (Code 1981, § 15-11-218, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed

effective date note at the beginning of this chapter.

PART 12

PERMANENCY PLANNING

15-11-230. (Effective January 1, 2014) Permanency planning hearing.

(a) The court shall hold a permanency plan hearing to determine the future permanent legal status of each child in DFCS custody.

(b) A permanency plan hearing, which considers in-state and out-of-state placement options for a child adjudicated as a dependent child, shall be held:

(1) No later than 30 days after DFCS has submitted a written report to the court which does not contain a plan for reunification services;

(2) For children under seven years of age at the time a petition is filed, no later than nine months after such child has entered foster care;

(3) For children seven years of age and older at the time a petition is filed, no later than 12 months after such child has entered foster care; or

(4) For a child in a sibling group whose members were removed from the home at the same time and in which one member of the sibling group was under seven years of age at the time a petition for dependency was filed, the permanency plan hearing shall be held no later than nine months after such child has entered foster care.

(c) After the initial permanency plan hearing has occurred, a permanency plan hearing shall be held not less frequently than every six months during the time a child adjudicated as a dependent child continues in DFCS custody or more frequently as deemed necessary by the court until the court determines that such child's permanency plan and goal have been achieved.

(d) A child adjudicated as a dependent child, his or her parent, guardian, or legal custodian, attorney, guardian ad litem, if any, foster parents if there are foster parents, any preadoptive parent or relatives providing care for such child, and other parties shall be given written notice of a permanency plan hearing at least five days in advance of such hearing and shall be advised that the permanency plan recommended by DFCS will be submitted to the court for consideration as the order of the court.

(e) The court shall consult with the child adjudicated as a dependent child, in an age-appropriate manner, regarding the proposed permanency plan for such child. (Code 1981, § 15-11-230, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-231. (Effective January 1, 2014) Permanency planning report.

At least five days prior to the permanency plan hearing, DFCS shall submit for the court's consideration a report recommending a permanency plan for a child adjudicated as a dependent child. The report shall include documentation of the steps to be taken by DFCS to finalize the permanent placement for such child and shall include, but not be limited to:

(1) The name, address, and telephone number of such child's parent, guardian, or legal custodian;

(2) The date on which such child was removed from his or her home and the date on which such child was placed in foster care;

(3) The location and type of home or facility in which such child is currently held or placed and the location and type of home or facility in which such child will be placed;

(4) The basis for the decision to hold such child in protective custody or to place such child outside of his or her home;

(5) A statement as to the availability of a safe and appropriate placement with a fit and willing relative of such child or other persons who have demonstrated an ongoing commitment to a child or a statement as to why placement with the relative or other person is not safe or appropriate;

(6) If as a result of the placement such child has been or will be transferred from the school in which such child is or most recently was enrolled, documentation that a placement that would maintain such child in that school is unavailable, inappropriate, or that such child's transfer to another school would be in such child's best interests;

(7) A plan for ensuring the safety and appropriateness of the placement and a description of the services provided to meet the needs of such child and his or her family, including a discussion of services that have been investigated and considered and are not available or likely to become available within a reasonable time to meet the needs of such child or, if available, why such services are not safe or appropriate;

(8) The goal of the permanency plan which shall include:

(A) Whether and, if applicable, when such child shall be returned to his or her parent;

(B) Whether and, if applicable, when such child shall be referred for termination of parental rights and adoption;

(C) Whether and, if applicable, when such child shall be placed with a permanent guardian; or

(D) In the case in which DFCS has documented a compelling reason that none of the foregoing options would be in the best interests of the child, whether, and if applicable, when such child shall be placed in another planned permanent living arrangement;

(9) If a child adjudicated as a dependent child is 14 years of age or older, a description of the programs and services that are or will be provided to assist such child in preparing for the transition from foster care to independent living. The description shall include all of the following:

(A) The anticipated age at which such child will be discharged from foster care;

(B) The anticipated amount of time available in which to prepare such child for the transition from foster care to independent living;

(C) The anticipated location and living situation of such child on discharge from foster care;

(D) A description of the assessment processes, tools, and methods that have been or will be used to determine the programs and services that are or will be provided to assist such child in preparing for the transition from foster care to independent living; and

(E) The rationale for each program or service that is or will be provided to assist such child in preparing for the transition from foster care to independent living, the time frames for delivering such programs or services, and the intended outcome of such programs or services; and

(10) When the recommended permanency plan is referral for termination of parental rights and adoption or placement in another home, a description of specific recruitment efforts such as the use of state, regional, and national adoption exchanges, including electronic exchange systems, to facilitate orderly and timely in-state and interstate placements. (Code 1981, § 15-11-231, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-232. (Effective January 1, 2014) Permanency planning hearing; findings.

(a) At the permanency plan hearing, the court shall make written findings of fact that include the following:

(1) Whether DFCS has made reasonable efforts to finalize the permanency plan which is in effect at the time of the hearing;

(2) The continuing necessity for and the safety and appropriateness of the placement;

(3) Compliance with the permanency plan by DFCS, parties, and any other service providers;

(4) Efforts to involve appropriate service providers in addition to DFCS staff in planning to meet the special needs of a child adjudicated as a dependent child and his or her parent, guardian, or legal custodian;

(5) Efforts to eliminate the causes for the placement of a child adjudicated as a dependent child outside of his or her home and toward returning such child safely to his or her home or obtaining a permanent placement for such child;

(6) The date by which it is likely that a child adjudicated as a dependent child will be returned to his or her home, placed for adoption, or placed with a permanent guardian or in some other alternative permanent placement;

(7) Whether, in the case of a child adjudicated as a dependent child placed out of state, the out-of-state placement continues to be appropriate and in the best interests of such child; and

(8) In the case of a child adjudicated as a dependent child who is 14 years of age or older, the services needed to assist such child to make a transition from foster care to independent living.

(b) The permanency plan incorporated in the court's order shall include:

(1) Whether and, if applicable, when a child adjudicated as a dependent child shall be returned to his or her parent;

(2) Whether and, if applicable, when a child adjudicated as a dependent child shall be referred for termination of parental rights and adoption;

(3) Whether and, if applicable, when a child adjudicated as a dependent child shall be placed with a permanent guardian; or

(4) Whether there is a safe and appropriate placement with a fit and willing relative of a child adjudicated as a dependent child or other persons who have demonstrated an ongoing commitment to a child or a statement as to why placement with such relative or other person is not safe or appropriate.

(c) If the court finds that there is a compelling reason that it would not be in a child's best interests to be returned to his or her parent, referred for termination of parental rights and adoption, or placed with a permanent guardian, then the court's order shall document the compelling reason and provide that such child should be placed in another planned permanent living arrangement as defined in the court's order.

(d) A supplemental order of the court adopting the permanency plan including all requirements of the permanency plan as provided in Code Section 15-11-231 shall be entered following the permanency hearing and in no case later than 30 days after the court has determined that reunification efforts shall not be made by DFCS. The supplemental order shall include a requirement that the DFCS case manager and

staff and, as appropriate, other representatives of a child adjudicated as a dependent child provide such child with assistance and support in developing a transition plan that is personalized at the direction of such child; includes specific options on housing, health insurance, education, local opportunities for mentors and continuing support services, and work force supports and employment services; and is as detailed as such child may elect in the 90 day period immediately prior to the date on which he or she will attain 18 years of age. (Code 1981, § 15-11-232, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed

effective date note at the beginning of this chapter.

15-11-233. (Effective January 1, 2014) Termination of parental rights; exceptions.

(a) Except as provided in subsection (b) of this Code section, DFCS shall file a petition to terminate the parental rights of a parent of a child adjudicated as a dependent child or, if such a petition has been filed by another party, seek to be joined as a party to the petition, and, concurrently, to identify, recruit, process, and approve a qualified family for an adoption if:

(1) A child adjudicated as a dependent child has been in foster care under the responsibility of DFCS for 15 of the most recent 22 months;

(2) The court has made a determination that the parent has subjected his or her child to aggravated circumstances; or

(3) The court has made a determination that the parent of a child adjudicated as a dependent child has been convicted of:

(A) The murder of another child of such parent;

(B) Voluntary manslaughter of another child of such parent;

(C) Voluntary manslaughter of the other parent of such child;

(D) Aiding or abetting, attempting, conspiring, or soliciting to commit murder or voluntary manslaughter of another child of such parent;

(E) Aiding or abetting, attempting, conspiring, or soliciting to commit murder or voluntary manslaughter of the other parent of such child; or

(F) Committing felony assault that has resulted in serious bodily injury to such child or to another child of such parent.

(b) Termination of parental rights may not be in the best interests of a child adjudicated as a dependent child when:

(1) Such child is being cared for by his or her relative;

(2) The case plan documents a compelling reason for determining that filing such a petition would not be in the best interests of such child. Such compelling reasons may include, but not be limited to:

(A) A parent of such child is successfully participating in services that will make it possible for his or her child to safely return home;

(B) Another permanency plan is better suited to meet the health and safety needs of such child. Documentation that another permanent plan is better suited to meet the health and safety needs of such child may include documentation that:

(i) Such child is 14 years of age or older and objects to termination of parental rights. Prior to accepting a child's objection, the court shall personally question such child in chambers to determine whether the objection is a voluntary and knowing choice;

(ii) Such child is 16 years of age or older and specifically requests that emancipation be established as his or her permanent plan;

(iii) The parent of such child and such child have a significant bond, but such parent is unable to care for such child because of an emotional or physical disability and such child's caregiver has committed to raising such child to the age of majority and facilitating visitation with such disabled parent; or

(iv) Such child is in a residential treatment facility that provides services specifically designed to address his or her treatment needs and the court determines that his or her needs could not be served by a less restrictive placement;

(C) Such child is living with his or her relative who is unable or unwilling to adopt such child, but who is willing and capable of providing such child with a stable and permanent home environment and the removal of such child from the physical custody of his or her relative would be detrimental to such child's emotional well-being;

(D) The court or judicial citizen review panel, in a prior hearing or review, determined that while the case plan was to reunify the family, DFCS did not make reasonable efforts; or

(E) Such child is an unaccompanied refugee or there are international legal obligations or foreign policy reasons that would preclude terminating parental rights; or

(3) DFCS has not provided to the family of such child services deemed necessary for his or her safe return to his or her home, consistent with the specific time frames for the accomplishment of the case plan goals.

(c) The recommendation by DFCS that termination of parental rights is not in the best interests of a child shall be based on the present family circumstances of such child and shall not preclude a different recommendation at a later date if the family circumstances of a child adjudicated as a dependent child change. (Code 1981, § 15-11-233, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

PART 13

PERMANENT GUARDIANSHIP

15-11-240. (Effective January 1, 2014) Appointment of permanent guardian; jurisdiction; findings.

(a) In addition to the jurisdiction to appoint guardians pursuant to Code Section 15-11-13, the juvenile court shall be vested with jurisdiction to appoint a permanent guardian for a child adjudicated as a dependent child in accordance with this article. Prior to the entry of such an order, the court shall:

(1) Find that reasonable efforts to reunify such child with his or her parents would be detrimental to such child or find that the living parents of such child have consented to the permanent guardianship;

(2) Find that termination of parental rights and adoption is not in the best interests of such child;

(3) Find that the proposed permanent guardian can provide a safe and permanent home for such child;

(4) Find that the appointment of a permanent guardian for such child is in the best interests of such child and that the individual chosen as such child's permanent guardian is the individual most appropriate to be such child's permanent guardian taking into consideration the best interests of the child; and

(5) If such child is 14 years of age or older, find that the appointment of a permanent guardian for such child is in the best interests of such child and that the individual chosen by such child as the child's permanent guardian is the individual most appropriate to be such child's permanent guardian taking into consideration the best interests of the child.

(b) The court may enter an order of support on behalf of a child against the parents of such child in accordance with paragraph (7) of subsection (a) of Code Section 15-11-212. (Code 1981, § 15-11-240, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-241. (Effective January 1, 2014) Petition for permanent guardian.

The petition for the appointment of a permanent guardian pursuant to this part shall set forth:

- (1) The facts upon which the court's jurisdiction is based;
- (2) The name and date of birth of the child adjudicated as a dependent child;
- (3) The name, address, and county of domicile of the petitioner and the petitioner's relationship to such child, if any, and, if different from the petitioner, the name, address, and county of domicile of the individual nominated by the petitioner to serve as guardian and that individual's relationship to such child, if any;
- (4) A statement that:
 - (A) Reasonable efforts to reunify such child with his or her parents would be detrimental to such child;
 - (B) Termination of parental rights and adoption is not in the best interests of such child;
 - (C) The proposed guardian can provide a safe and permanent home for such child;
 - (D) The appointment of a permanent guardian for such child is in the best interests of such child and that the individual chosen as such child's guardian is the individual most appropriate to be such child's permanent guardian taking into consideration the best interests of the child; and
 - (E) If such child is 14 years of age or older, that the appointment of a permanent guardian for such child is in the best interests of the child and that the individual chosen by such child as the child's permanent guardian is the most appropriate individual to be such child's permanent guardian taking into consideration the best interests of the child;
- (5) Whether such child was born out of wedlock and, if so, the name and address of the biological father, if known;

(6) Whether, to the petitioner's knowledge, there exists any notarized or witnessed document made by a parent of such child that deals with the guardianship of such child and the name and address of any designee named in the document;

(7) In addition to the petitioner and the nominated guardian and, if the parent of such child has not consented to the permanent guardianship, the names and addresses of the following relatives of such child whose parents' whereabouts are known:

(A) The adult siblings of such child; provided, however, that not more than three adult siblings need to be listed;

(B) If there is no adult sibling of such child, the grandparents of such child; provided, however, that not more than three grandparents need to be listed; or

(C) If there is no grandparent of such child, any three of the nearest adult relatives of such child determined according to Code Section 53-2-1;

(8) Whether a temporary guardian has been appointed for such child or a petition for the appointment of a temporary guardian has been filed or is being filed; and

(9) The reason for any omission in the petition for appointment of a permanent guardian for such child in the event full particulars are lacking. (Code 1981, § 15-11-241, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-242. (Effective January 1, 2014) Effect of guardianship order.

(a) Permanent guardianship orders entered pursuant to Code Section 15-11-240 shall:

(1) Remain in effect until the child adjudicated as a dependent child reaches the age of 18 or becomes emancipated;

(2) Not be subject to review by the court except as provided in Code Section 15-11-244; and

(3) Establish a reasonable visitation schedule which allows the child adjudicated as a dependent child to maintain meaningful contact with his or her parents through personal visits, telephone calls, letters, or other forms of communication or specifically include any restriction on a parent's right to visitation.

(b) A permanent guardian shall have the rights and duties of a permanent guardian as provided in Code Sections 29-2-21, 29-2-22, and 29-2-23 and shall take the oath required of a guardian as provided in Code Section 29-2-24. (Code 1981, § 15-11-242, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-243. (Effective January 1, 2014) Notice and permanent guardianship hearing.

(a) Notice of a guardianship petition pursuant to this part shall be given in accordance with subsection (c) of Code Section 29-2-17 except that, if the parents have consented to the guardianship, notice of the petition shall not be required to be given to:

(1) The adult siblings of the child who was adjudicated as a dependent child;

(2) The grandparents of the child who was adjudicated as a dependent child; or

(3) The nearest adult relatives of the child who was adjudicated as a dependent child as determined in accordance with Code Section 53-2-1.

(b) The hearing shall be conducted in accordance with Code Section 29-2-18 to determine the best interests of the child who was adjudicated as a dependent child, and in reaching its determination the court shall consider Code Section 15-11-240. (Code 1981, § 15-11-243, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-244. (Effective January 1, 2014) Modification of permanent guardianship order.

(a) The court shall retain jurisdiction over a guardianship action under this part for the sole purpose of entering an order following the filing of a petition to modify, vacate, or revoke the guardianship and appoint a new guardian.

(b) The superior courts shall have concurrent jurisdiction for enforcement or modification of any child support or visitation order entered pursuant to Code Section 15-11-240.

(c) The guardianship shall be modified, vacated, or revoked based upon a finding, by clear and convincing evidence, that there has been a material change in the circumstances of the child who was adjudicated as a dependent child or the guardian and that such modification, vacation, or revocation of the guardianship order and the appointment of a new guardian is in the best interests of the child. Appointment of a new guardian shall be subject to the provisions of Code Sections 15-11-240 and 15-11-241. (Code 1981, § 15-11-244, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed

effective date note at the beginning of this chapter.

ARTICLE 4

TERMINATION OF PARENTAL RIGHTS

PART 1

GENERAL PROVISIONS

15-11-260. (Effective January 1, 2014) Purpose of article.

(a) The purpose of this article is:

(1) To protect a child who has been adjudicated as a dependent child from his or her parent who is unwilling or unable to provide safety and care adequate to meet such child's physical, emotional, and mental health needs by providing a judicial process for the termination of all parental rights and responsibilities;

(2) To eliminate the need for a child who has been adjudicated as a dependent child to wait unreasonable periods of time for his or her parent to correct the conditions which prevent his or her return to the family;

(3) To ensure that the continuing needs of a child who has been alleged or adjudged to be a dependent child for proper physical, mental, and emotional growth and development are the decisive considerations in all proceedings;

(4) To ensure that the constitutional rights of all parties are recognized and enforced in all proceedings conducted pursuant to this article while ensuring that the fundamental needs of a child are not subjugated to the interests of others; and

(5) To encourage stability in the life of a child who has been adjudicated as a dependent child and has been removed from his or her home by ensuring that all proceedings are conducted expedi-

tiously to avoid delays in resolving the status of the parent and in achieving permanency for such child.

(b) Nothing in this article shall be construed as affecting the rights of a parent who is not the subject of the proceedings. (Code 1981, § 15-11-260, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-261. (Effective January 1, 2014) Scope, effect, and duration of order terminating parental rights.

(a) An order terminating the parental rights of a parent shall be without limit as to duration and shall divest the parent and his or her child of all legal rights, powers, privileges, immunities, duties, and obligations with respect to each other, except:

(1) The right of such child to receive child support from his or her parent until a final order of adoption is entered;

(2) The right of such child to inherit from and through his or her parent. The right of inheritance of such child shall be terminated only by a final order of adoption; and

(3) The right of such child to pursue any civil action against his or her parent.

(b) When an order terminating the parent and child relationship has been issued, the parent whose right has been terminated shall not thereafter be entitled to notice of proceedings for the adoption of his or her child by another, nor has the parent any right to object to the adoption or otherwise to participate in such proceedings.

(c) The relationship between a child and his or her siblings shall not be severed until that relationship is terminated by final order of adoption.

(d) A relative whose relationship to a child is derived through the parent whose parental rights are terminated shall be considered to be a relative of such child for purposes of placement of, and permanency plan for, such child until such relationship is terminated by final order of adoption. (Code 1981, § 15-11-261, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-262. (Effective January 1, 2014) Right to attorney and appointment of guardian ad litem.

(a) A child and any other party to a proceeding under this article shall have the right to an attorney at all stages of the proceedings under this article.

(b) The court shall appoint an attorney for a child in a termination of parental rights proceeding. The appointment shall be made as soon as practicable to ensure adequate representation of such child and, in any event, before the first court hearing that may substantially affect the interests of such child.

(c) A child's attorney owes to a child the duties imposed by the law of this state in an attorney-client relationship.

(d) The court may appoint a guardian ad litem for a child in a termination proceeding at the request of such child's attorney or upon the court's own motion if it determines that a guardian ad litem is necessary to assist the court in determining the best interests of such child; provided, however, that such guardian ad litem may be the same person as the child's attorney unless or until there is a conflict of interest between the attorney's duty to such child as such child's attorney and the attorney's considered opinion of such child's best interests as guardian ad litem.

(e) The role of a guardian ad litem in a termination of parental rights proceeding shall be the same role as provided for in all dependency proceedings under Article 3 of this chapter.

(f) If an attorney has been appointed to represent a child in a prior proceeding under this chapter, the court, when possible, shall appoint the same attorney to represent such child in any subsequent proceeding.

(g) An attorney appointed to represent a child in a termination proceeding shall continue the representation in any subsequent appeals unless excused by the court.

(h) Unless authorized by the court, neither a child or a representative of a child may waive the right to any attorney in a termination proceeding.

(i) A party other than a child shall be informed of his or her right to an attorney prior to the adjudication hearing and prior to any other hearing at which a party could be subjected to the loss of residual parental rights. A party other than a child shall be given an opportunity to:

- (1) Obtain and employ an attorney of the party's own choice;

(2) To obtain a court appointed attorney if the court determines that the party is an indigent person; or

(3) Waive the right to an attorney. (Code 1981, § 15-11-262, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-263. (Effective January 1, 2014) Physical and mental examinations.

(a) Upon motion of any party or the court, the court may require a physical or mental evaluation of a child adjudicated as a dependent child or his or her parent, stepparent, guardian, or legal custodian.

(b) The cost of any ordered evaluation shall be paid by the moving party unless apportioned by the court, in its discretion, to any other party or parties. (Code 1981, § 15-11-263, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-264. (Effective January 1, 2014) Discovery.

(a) In all cases under this article, any party shall, upon written request to the party having actual custody, control, or possession of the material to be produced, have full access to the following for inspection, copying, or photographing:

(1) The names and telephone numbers of each witness likely to be called to testify at the hearing by another party;

(2) A copy of any formal written statement made by the child adjudicated as a dependent child or any witness that relates to the subject matter concerning the testimony of the witness that a party intends to call as a witness at the hearing;

(3) Except as otherwise provided in subsection (b) of this Code section, any scientific or other report which is intended to be introduced at any hearing or that pertains to physical evidence which is intended to be introduced;

(4) Any drug screen concerning the child adjudicated as a dependent child or his or her parent, guardian, or legal custodian;

(5) Any case plan concerning the child adjudicated as a dependent child or his or her parent, guardian, or legal custodian;

(6) Any visitation schedule related to the child who is adjudicated as a dependent child;

(7) Photographs and any physical evidence which are intended to be introduced at any hearing;

(8) Copies of the police incident report regarding an occurrence which forms part or all of the basis of the petition; and

(9) Any other relevant evidence not requiring consent or a court order under subsection (b) of this Code section.

(b) Upon presentation of a court order or written consent from the appropriate person or persons permitting access to the party having actual custody, control, or possession of the material to be produced, any party shall have access to the following for inspection, copying, or photographing:

(1) Any psychological, developmental, physical, mental or emotional health, or other assessments of the child adjudicated as a dependent child or the family, parent, guardian, or legal custodian of such child;

(2) Any school record concerning the child adjudicated as a dependent child;

(3) Any medical record concerning the child adjudicated as a dependent child;

(4) Transcriptions, recordings, and summaries of any oral statement of the child adjudicated as a dependent child or of any witness, except child abuse reports that are confidential pursuant to Code Section 19-7-5 and work product of counsel;

(5) Any family team meeting report or multidisciplinary team meeting report concerning the child adjudicated as a dependent child or his or her parent, guardian, or legal custodian;

(6) Supplemental police reports, if any, regarding an occurrence which forms part of all of the basis of the petition; and

(7) Immigration records concerning the child adjudicated as a dependent child.

(c) If a party requests disclosure of information pursuant to subsection (a) or (b) of this Code section, it shall be the duty of such party to promptly make the following available for inspection, copying, or photographing to every other party:

(1) The names and last known addresses and telephone numbers of each witness to the occurrence which forms the basis of the party's defense or claim;

(2) Any scientific or other report which is intended to be introduced at the hearing or that pertains to physical evidence which is intended to be introduced;

(3) Photographs and any physical evidence which are intended to be introduced at the hearing; and

(4) A copy of any written statement made by any witness that relates to the subject matter concerning the testimony of the witness that the party intends to call as a witness.

(d) A request for discovery or reciprocal discovery shall be complied with promptly and not later than five days after the request is received or 72 hours prior to any hearing except when later compliance is made necessary by the timing of the request. If the request for discovery is made fewer than 48 hours prior to an adjudicatory hearing, the discovery response shall be produced in a timely manner. If, subsequent to providing a discovery response in compliance with this Code section, the existence of additional evidence is found, it shall be promptly provided to the party making the discovery request.

(e) If a request for discovery or consent for release is refused, application may be made to the court for a written order granting discovery. Motions for discovery shall certify that a request for discovery or consent was made and was unsuccessful despite good faith efforts made by the requesting party. An order granting discovery shall require reciprocal discovery. Notwithstanding the provisions of subsection (a) or (b) of this Code section, the court may deny, in whole or in part, or otherwise limit or set conditions concerning the discovery response upon a sufficient showing by a person or entity to whom a request for discovery is made that disclosure of the information would:

(1) Jeopardize the safety of a party, witness, or confidential informant;

(2) Create a substantial threat of physical or economic harm to a witness or other person;

(3) Endanger the existence of physical evidence;

(4) Disclose privileged information; or

(5) Impede the criminal prosecution of a minor who is being prosecuted as an adult or the prosecution of an adult charged with an offense arising from the same transaction or occurrence.

(f) No deposition shall be taken of a child adjudicated as a dependent child unless the court orders the deposition, under such conditions as the court may order, on the ground that the deposition would further the purposes of this part.

(g) If at any time during the course of the proceedings it is brought to the attention of the court that a person or entity has failed to comply with an order issued pursuant to this Code section, the court may grant a continuance, prohibit the party from introducing in evidence the information not disclosed, or enter such other order as the court deems just under the circumstances.

(h) Nothing contained in this Code section shall prohibit the court from ordering the disclosure of any information that the court deems necessary for proper adjudication.

(i) Any material or information furnished to a party pursuant to this Code section shall remain in the exclusive custody of the party and shall only be used during the pendency of the case and shall be subject to such other terms and conditions as the court may provide. (Code 1981, § 15-11-264, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-265. (Effective January 1, 2014) Suspension of right of voluntary surrender of parental rights.

Once a petition to terminate parental rights has been filed, the parent of a child adjudicated as a dependent child shall thereafter be without authority to execute an act of surrender or otherwise to affect the custody of his or her child except such parent may:

(1) Execute an act of surrender in favor of the department; and

(2) Consent to a judgment terminating his or her parental rights. (Code 1981, § 15-11-265, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

PART 2

VENUE FOR PETITION TO TERMINATE PARENTAL RIGHTS

15-11-270. (Effective January 1, 2014) Venue.

(a) A proceeding under this article shall be commenced in the county that has jurisdiction over the related dependency proceedings.

(b) For the convenience of the parties, the court may transfer proceedings to the county in which the parent of a child adjudicated as

a dependent child legally resides. If a proceeding is transferred, certified copies of all legal and social documents and records pertaining to the proceeding on file with the clerk of court shall accompany the transfer. (Code 1981, § 15-11-270, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

PART 3

PETITION AND SUMMONS

15-11-280. (Effective January 1, 2014) Petition; style; contents; putative fathers.

(a) A petition to terminate parental rights and all subsequent court documents in such proceeding shall be entitled “In the interest of _____, a child.”, except upon appeal, in which event the anonymity of a child shall be preserved by use of appropriate initials. The petition shall be in writing.

(b) The petition to terminate parental rights shall be made, verified, and endorsed by the court as provided in Article 3 of this chapter for a petition alleging dependency.

(c) A petition to terminate parental rights shall:

(1) State clearly that an order for termination of parental rights is requested and that the effect of the order will conform to Code Section 15-11-261;

(2) State the statutory ground, as provided in Code Section 15-11-310, on which the petition is based; and

(3) Set forth plainly and with particularity:

(A) The facts which bring a child within the jurisdiction of the court, with a statement that it is in the best interests of such child and the public that the proceeding be brought;

(B) The name, age, date of birth, and residence address of the child named in the petition;

(C) The name and residence address of the parent, guardian, or legal custodian of such child; or, if the parent, guardian, or legal custodian of the child named in the petition to terminate parental rights does not reside or cannot be found within the state or if such place of residence address is unknown, the name of any known adult relative of such child residing within the county or, if there is

none, the known adult relative of such child residing nearest to the location of the court;

(D) Whether the child named in the petition is in protective custody and, if so, the place of his or her foster care and the time such child was taken into protective custody; and

(E) Whether any of the information required by this paragraph is unknown.

(d) When a petition to terminate parental rights seeks termination of the rights of a biological father who is not the legal father and who has not surrendered his rights to his child, the petition shall include a certificate from the putative father registry disclosing the name, address, and social security number of any registrant acknowledging paternity of the child named in the petition or indicating the possibility of paternity of a child of the child's mother for a period beginning no more than two years immediately preceding such child's date of birth. The certificate shall document a search of the registry on or after the date of the filing of the petition and shall include a statement that the registry is current as to filings of registrants as of the date of the petition or as of a date later than the date of the petition.

(e) A copy of a voluntary surrender or written consent, if any, previously executed by a parent of the child named in the petition to terminate parental rights shall be attached to the petition. (Code 1981, § 15-11-280, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-281. (Effective January 1, 2014) Issuance of summons.

(a) The court shall direct the issuance of a summons to the mother, legal father or biological father, guardian, legal custodian, attorney, and guardian ad litem, if any, of the child named in the petition to terminate parental rights and any other persons who appear to the court to be proper or necessary parties to the proceeding, requiring them to appear before the court at the time fixed to answer the allegations of the petition. A copy of such petition shall accompany the summons unless the summons is served by publication, in which case the published summons shall indicate the general nature of the allegations and where a copy of such petition can be obtained.

(b) The court shall direct notice and a copy of the petition be provided to the child named in the petition if the child is 14 years of age or older.

(c) The summons shall include the notice of effect of a termination judgment as set forth in Code Section 15-11-284 and shall state that a

party is entitled to an attorney in the proceedings and that the court will appoint an attorney if the party is an indigent person.

(d) The court may endorse upon the summons an order directing the parent, guardian, or legal custodian of the child named in the petition to appear personally at the hearing or directing the person having the physical custody or control of such child to bring such child to the hearing.

(e) A party other than the child named in the petition may waive service of summons by written stipulation or by voluntary appearance at the hearing. (Code 1981, § 15-11-281, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-282. (Effective January 1, 2014) Service of summons.

(a) If a party to be served with a summons is within this state and can be found, the summons shall be served upon him or her personally as soon as possible and at least 30 days before the termination of parental rights hearing.

(b) If a party to be served is within this state and cannot be found but his or her address is known or can be ascertained with due diligence, the summons shall be served upon such party at least 30 days before the termination of parental rights hearing by mailing him or her a copy by registered or certified mail or statutory overnight delivery, return receipt requested.

(c) If a party to be served is outside this state but his or her address is known or can be ascertained with due diligence, service of the summons shall be made at least 30 days before the termination of parental rights hearing either by delivering a copy to such party personally or by mailing a copy to him or her by registered or certified mail or statutory overnight delivery, return receipt request.

(d) If, after due diligence, a party to be served with a summons cannot be found and such party's address cannot be ascertained, whether he or she is within or outside this state, the court may order service of the summons upon him or her by publication. The termination of parental rights hearing shall not be earlier than 31 days after the date of the last publication.

(e)(1) Service by publication shall be made once a week for four consecutive weeks in the legal organ of the county where the petition to terminate parental rights has been filed. Service shall be deemed complete upon the date of the last publication.

(2) When served by publication, the notice shall contain the names of the parties, except that the anonymity of a child shall be preserved by the use of appropriate initials, and the date the petition to terminate parental rights was filed. The notice shall indicate the general nature of the allegations and where a copy of the petition to terminate parental rights can be obtained and require the party to be served by publication to appear before the court at the time fixed to answer the allegations of the petition to terminate parental rights.

(3) The petition to terminate parental rights shall be available to the parent whose rights are sought to be terminated free of charge from the court during business hours or, upon request, shall be mailed to such parent.

(4) Within 15 days after the filing of the order of service by publication, the clerk of court shall mail a copy of the notice, a copy of the order of service by publication, and a copy of the petition to terminate parental rights to the absent parent's last known address.

(f) Service of the summons may be made by any suitable person under the direction of the court.

(g) The court may authorize the payment from county funds of the costs of service and of necessary travel expenses incurred by persons summoned or otherwise required to appear at the hearing. (Code 1981, § 15-11-282, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed

effective date note at the beginning of this chapter.

15-11-283. (Effective January 1, 2014) Notice to father.

(a) Unless he has surrendered all parental rights to his child, a summons shall be served on the legal father of a child named in the petition brought pursuant to this article or the biological father:

(1) Whose paternity has been previously established in a judicial proceeding to which the father was a party;

(2) Whose identity is known to the petitioner or the petitioner's attorney;

(3) Who is a registrant on the putative father registry and has acknowledged paternity of the child named in the petition brought pursuant to this article;

(4) Who is a registrant on the putative father registry who has indicated possible paternity of the child named in the petition brought pursuant to this article that was born to such child's mother

during a period beginning no more than two years immediately preceding such child's date of birth; or

(5) Who, if the court finds from the evidence including but not limited to the affidavit of the mother of a child named in the petition brought pursuant to this article, has performed any of the following acts:

(A) Lived with such child;

(B) Contributed to such child's support;

(C) Made any attempt to legitimate such child; or

(D) Provided support or medical care for such mother either during her pregnancy or during her hospitalization for the birth of such child.

(b) Notice shall be given to the biological father or legal father by the following methods:

(1) If the biological father or legal father is within this state and can be found, the summons shall be served upon him personally as soon as possible and least 30 days before the termination of parental rights hearing;

(2) If the biological father or legal father is outside this state but his address is known or can be ascertained with due diligence, service of summons shall be made at least 30 days before the termination of parental rights hearing either by delivering a copy to him personally or by mailing a copy to him by registered or certified mail or statutory overnight delivery, return receipt requested; or

(3) If, after due diligence, the biological father or legal father to be served with summons cannot be found and his address cannot be ascertained, whether he is within or outside this state, the court may order service of summons upon him by publication. The termination of parental rights hearing shall not be earlier than 31 days after the date of the last publication. Service by publication shall be as follows:

(A) Service by publication shall be made once a week for four consecutive weeks in the legal organ of the county where the petition to terminate parental rights has been filed and of the county of the biological father's last known address. Service shall be deemed complete upon the date of the last publication;

(B) When served by publication, the notice shall contain the names of the parties, except that the anonymity of a child shall be preserved by the use of appropriate initials, and the date the petition to terminate parental rights was filed. The notice shall indicate the general nature of the allegations and where a copy of

the petition to terminate parental rights can be obtained and require the biological father or legal father to appear before the court at the time fixed to answer the allegations of the petition to terminate parental rights;

(C) The petition to terminate parental rights shall be available to the biological father or legal father whose rights are sought to be terminated free of charge from the court during business hours or, upon request, shall be mailed to the biological father or legal father; and

(D) Within 15 days after the filing of the order of service by publication, the clerk of court shall mail a copy of the notice, a copy of the order of service by publication, and a copy of the petition to terminate parental rights to the biological father's or legal father's last known address.

(c) The notice shall advise the biological father who is not the legal father that he may lose all rights to the child named in a petition brought pursuant to this article and will not be entitled to object to the termination of his rights to such child unless, within 30 days of receipt of notice, he files:

(1) A petition to legitimate such child; and

(2) Notice of the filing of the petition to legitimate with the court in which the termination of parental rights proceeding is pending.

(d) If the identity of the biological father whose rights are sought to be terminated is not known to the petitioner or the petitioner's attorney and the biological father would not be entitled to notice in accordance with subsection (a) of this Code section, then it shall be rebuttably presumed that he is not entitled to notice of the proceedings. The court shall be authorized to require the mother to execute an affidavit supporting the presumption or show cause before the court if she refuses. Absent evidence rebutting the presumption, no further inquiry or notice shall be required by the court, and the court may enter an order terminating the rights of the biological father.

(e) The court may enter an order terminating all the parental rights of a biological father, including any right to object thereafter to such proceedings:

(1) Who fails to file a timely petition to legitimate the child named in a petition brought pursuant to this article and notice in accordance with subsection (c) of this Code section;

(2) Whose petition to legitimate is subsequently dismissed for failure to prosecute; or

(3) Whose petition to legitimate does not result in a court order finding that he is the legal father of the child named in a petition

brought pursuant to this article. (Code 1981, § 15-11-283, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-284. (Effective January 1, 2014) Notice of effect of termination judgment.

The notice required to be given to the mother, the biological father, and legal father of the child shall state:

“NOTICE OF EFFECT OF TERMINATION JUDGMENT

Georgia law provides that you can permanently lose your rights as a parent. A petition to terminate parental rights has been filed requesting the court to terminate your parental rights to your child. A copy of the petition to terminate parental rights is attached to this notice. A court hearing of your case has been scheduled for the _____ day of _____, _____, at (time of day), at the _____ Court of _____ County.

If you fail to appear, the court can terminate your rights in your absence.

If the court at the trial finds that the facts set out in the petition to terminate parental rights are true and that termination of your rights will serve the best interests of your child, the court can enter a judgment ending your rights to your child.

If the judgment terminates your parental rights, you will no longer have any rights to your child. This means that you will not have the right to visit, contact, or have custody of your child or make any decisions affecting your child or your child’s earnings or property. Your child will be legally freed to be adopted by someone else.

Even if your parental rights are terminated:

- (1) You will still be responsible for providing financial support (child support payments) for your child’s care unless and until your child is adopted; and
- (2) Your child can still inherit from you unless and until your child is adopted.

This is a very serious matter. You should contact an attorney immediately so that you can be prepared for the court hearing. You have the right to hire an attorney and to have him or her represent you. If you cannot afford to hire an attorney, the court will appoint an attorney if the court finds that you are an indigent person. Whether or not you

decide to hire an attorney, you have the right to attend the hearing of your case, to call witnesses on your behalf, and to question those witnesses brought against you.

If you have any questions concerning this notice, you may call the telephone number of the clerk's office which is _____. (Code 1981, § 15-11-284, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-285. (Effective January 1, 2014) Sanctions for failure to obey summons.

(a) If any person named in and properly served with a summons shall without reasonable cause fail to appear or, when directed in the summons, to bring the child named in the petition pursuant to this article before the court, then the court may issue a rule nisi against the person, directing the person to appear before the court to show cause why he or she should not be held in contempt of court.

(b) If a summons cannot be served or if the person to whom the summons is directed fails to obey it, the court may issue an order to take the child named in the petition pursuant to this article into protective custody. (Code 1981, § 15-11-285, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

PART 4

HEARINGS

15-11-300. (Effective January 1, 2014) Notice of hearings to specified parties.

(a) In advance of each hearing to terminate parental rights, DFCS shall give written notice of the date, time, place, and purpose of the hearing to the caregiver of the child at issue, the foster parents of such child, if any, any preadoptive parent, or any relative providing care for such child, including the right to be heard. The written notice shall be delivered to the recipient at least 72 hours before the review or hearing by United States mail, e-mail, or hand delivery.

(b) This Code section shall not be construed to require a caregiver, foster parent, preadoptive parent, or relative caring for the child at

issue to be made a party to the hearing solely on the basis of such notice and right to be heard. (Code 1981, § 15-11-300, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed

effective date note at the beginning of this chapter.

15-11-301. (Effective January 1, 2014) Expedited hearings; orders.

(a) If no just cause has been shown for delay, all hearings contemplated by this article shall be conducted within 90 days of the date a petition to terminate parental rights is filed.

(b) If no just cause for delay has been shown by written finding of fact by the court, an order of disposition shall be issued by the juvenile court no later than 30 days after the conclusion of the hearing on the petition to terminate parental rights.

(c) All hearings contemplated by this article shall be recorded by stenographic notes or by electronic, mechanical, or other appropriate means capable of accurately capturing a full and complete record of all words spoken during the hearings. If no just cause for delay has been shown, the court reporter shall provide a transcript of the hearings no later than 30 days after a notice of appeal is filed.

(d) This Code section shall not affect the right to request a rehearing or the right to appeal the juvenile court's order.

(e) Failure to comply with the time requirements of this Code section shall not be grounds to invalidate an otherwise proper order terminating parental rights unless the court determines that such delay resulted in substantial prejudice to a party. (Code 1981, § 15-11-301, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed

effective date note at the beginning of this chapter.

15-11-302. (Effective January 1, 2014) Confidentiality of testimony of parties.

The record of the testimony of the parties adduced in any proceeding under this article shall not be admissible in any civil, criminal, or any other cause or proceedings in any court against a person named as respondent for any purpose whatsoever, except in subsequent dependency or termination proceedings involving the same child or dependency or termination proceedings involving the same respondent. (Code 1981, § 15-11-302, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-303. (Effective January 1, 2014) Standard of proof.

In all proceedings under this article, the standard of proof to be adduced to terminate parental rights shall be by clear and convincing evidence. (Code 1981, § 15-11-303, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

PART 5

GROUND FOR TERMINATION OF PARENTAL RIGHTS

15-11-310. (Effective January 1, 2014) Grounds for determining termination of parental rights.

(a) In considering the termination of parental rights, the court shall first determine whether one of the following statutory grounds for termination of parental rights has been met:

(1) The parent has given written consent to termination which has been acknowledged by the court or has voluntarily surrendered his or her child for adoption;

(2) The parent has subjected his or her child to aggravated circumstances;

(3) The parent has wantonly and willfully failed to comply for a period of 12 months or longer with a decree to support his or her child that has been entered by a court of competent jurisdiction of this or any other state;

(4) A child is abandoned by his or her parent; or

(5) A child is a dependent child due to lack of proper parental care or control by his or her parent, reasonable efforts to remedy the circumstances have been unsuccessful or were not required, such cause of dependency is likely to continue or will not likely be remedied, and the continued dependency will cause or is likely to cause serious physical, mental, emotional, or moral harm to such child.

(b) If any of the statutory grounds for termination has been met, the court shall then consider whether termination is in a child's best interests after considering the following factors:

(1) Such child's sense of attachments, including his or her sense of security and familiarity, and the continuity of affection for such child;

(2) Such child's wishes and long-term goals;

(3) Such child's need for permanence, including his or her need for stability and continuity of relationships with a parent, siblings, and other relatives; and

(4) Any other factors, including the factors set forth in Code Section 15-11-26, considered by the court to be relevant and proper to its determination.

(c) If the court determines that a parent has subjected his or her child to aggravated circumstances because such parent has committed the murder of the other parent of such child, the court shall presume that termination of parental rights is in the best interests of the child. (Code 1981, § 15-11-310, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-311. (Effective January 1, 2014) Determination of whether child is without proper parental care and control.

(a) In determining whether a child is without proper parental care and control, the court shall consider, without being limited to, the following:

(1) A medically verified deficiency of such child's parent's physical, mental, or emotional health that is of such duration or nature so as to render such parent unable to provide adequately for his or her child;

(2) Excessive use of or history of chronic unrehabilitated substance abuse with the effect of rendering a parent of such child incapable of providing adequately for the physical, mental, emotional, or moral condition and needs of his or her child;

(3) A felony conviction and imprisonment of a parent of such child for an offense which has a demonstrably negative effect on the quality of the parent-child relationship including, but not limited to, any of the following:

(A) Murder of another child of such parent;

(B) Voluntary manslaughter of another child of such parent;

(C) Voluntary manslaughter of the other parent of his or her child;

(D) Aiding or abetting, attempting, conspiring, or soliciting to commit murder or voluntary manslaughter of another child of such parent;

(E) Aiding or abetting, attempting, conspiring, or soliciting to commit murder or voluntary manslaughter of the other parent of his or her child; or

(F) Committing felony assault that results in serious bodily injury to his or her child or another child of such parent;

(4) Egregious conduct or evidence of past egregious conduct of a physically, emotionally, or sexually cruel or abusive nature by such parent toward his or her child or toward another child of such parent;

(5) Physical, mental, or emotional neglect of his or her child or evidence of past physical, mental, or emotional neglect by the parent of such child or another child of such parent; and

(6) Serious bodily injury or death of a sibling of his or her child under circumstances which constitute substantial evidence that such injury or death resulted from parental neglect or abuse.

(b) In determining whether a child who is not in the custody and care of his or her parent is without proper parental care and control, the court shall also consider, without being limited to, whether such parent, without justifiable cause, has failed significantly for a period of six months prior to the date of the termination hearing:

(1) To develop and maintain a parental bond with his or her child in a meaningful, supportive manner;

(2) To provide for the care and support of his or her child as required by law or judicial decree; and

(3) To comply with a court ordered plan designed to reunite such parent with his or her child.

(c) A parent's reliance on prayer or other religious nonmedical means for healing in lieu of medical care, in the exercise of religious beliefs, shall not be the sole basis for determining a parent to be unwilling or unable to provide safety and care adequate to meet his or her child's physical, emotional, and mental health needs as provided in paragraph (1) of subsection (a) of this Code section or as depriving such child of proper parental care or control for purposes of this Code section and Code Section 15-11-310. (Code 1981, § 15-11-311, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

PART 6

DISPOSITION

15-11-320. (Effective January 1, 2014) Termination of parental rights; findings; standard of proof.

(a) When the court finds that any ground set out in Code Section 15-11-310 is proved by clear and convincing evidence and that termination of parental rights is in a child's best interests, it shall order the termination of the parent's rights.

(b) The court's order shall:

(1) Contain written findings on which the order is based, including the factual basis for a determination that grounds for termination of parental rights exist and that termination is in the best interests of the child;

(2) Be conclusive and binding on all parties from the date of entry;

(3) Grant custody of the child at issue in accordance with Code Section 15-11-321; and

(4) Inform the parent whose rights have been terminated of his or her right to use the services of the Georgia Adoption Reunion Registry; however, failure to include such information shall not affect the validity of the judgment.

(c) If the court does not order the termination of parental rights but the court finds that there is clear and convincing evidence that a child is a dependent child, the court may enter a disposition order in accordance with the provisions of Article 3 of this chapter.

(d) The court shall transmit a copy of every final order terminating the parental rights of a parent to the Office of Adoptions of the department within 15 days of the filing of such order. (Code 1981, § 15-11-320, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-321. (Effective January 1, 2014) Custody of child following termination proceedings or surrender of parental rights.

(a) When a court enters an order terminating the parental rights of a parent or accepts a parent's voluntary surrender of parental rights, or a petition for termination of parental rights is withdrawn because a parent has executed an act of surrender in favor of the department, a

placement may be made only if the court finds that such placement is in the best interests of the child and in accordance with such child's court approved permanency plan created pursuant to Code Sections 15-11-231 and 15-11-232. In determining which placement is in a child's best interests, the court shall enter findings of fact reflecting its consideration of the following:

- (1) Such child's need for a placement that offers the greatest degree of legal permanence and security;
- (2) The least disruptive placement for such child;
- (3) Such child's sense of attachment and need for continuity of relationships;
- (4) The value of biological and familial connections; and
- (5) Any other factors the court deems relevant to its determination.

(b) A guardian or legal custodian shall submit to the jurisdiction of the court for purposes of placement.

(c) A placement effected under the provisions of this Code section shall be conditioned upon the person who is given custody or who is granted an adoption of a child whose parents have had their parental rights terminated or surrendered agreeing to abide by the terms and conditions of the order of the court.

(d) In addition to its rights as a legal custodian, the department has the authority to consent to the adoption of a child whose parents have had their parental rights terminated or surrendered. (Code 1981, § 15-11-321, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-322. (Effective January 1, 2014) Continuing court review when child not adopted.

(a) If a petition seeking the adoption of a child whose parents have had their parental rights terminated or surrendered is not filed within six months after the date of the disposition order, the court shall then, and at least every six months thereafter so long as such child remains unadopted, review the circumstances of such child to determine what efforts have been made to assure that such child will be adopted. The court shall:

- (1) Make written findings regarding whether reasonable efforts have been made to move such child to permanency;

(2) Evaluate whether, in light of any change in circumstances, the permanency plan for such child remains appropriate; and

(3) Enter such orders as it deems necessary to further adoption or if appropriate, other permanency options, including, but not limited to, another placement.

(b) In those cases in which a child whose parents have had their parental rights terminated or surrendered was placed with a guardian, within 60 days after such appointment and within 60 days after each anniversary date of such appointment, the guardian shall file with the court a personal status report of such child which shall include:

(1) A description of such child's general condition, changes since the last report, and such child's needs;

(2) All addresses of such child during the reporting period and the living arrangements of such child for all addresses; and

(3) Recommendations for any modification of the guardianship order. (Code 1981, § 15-11-322, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-323. (Effective January 1, 2014) Reinstatement of parental rights; standard of proof.

(a) A child who has not been adopted after the passage of at least three years from the date the court terminated parental rights or the parent voluntarily surrendered parental rights to DFCS and for whom the court has determined that adoption is no longer the permanent plan may petition the court to reinstate parental rights pursuant to the modification of orders procedure prescribed by Code Section 15-11-32. Such child may file the petition to reinstate parental rights prior to the expiration of such three-year period if the department or licensed child-placing agency that is responsible for the custody and supervision of such child and such child stipulate that such child is no longer likely to be adopted. A child 14 years of age or older shall sign the petition in the absence of a showing of good cause as to why such child could not do so.

(b) If it appears that the best interests of a child may be promoted by reinstatement of parental rights, the court shall order that a hearing be held and shall cause notice to be served by United States mail to DFCS, the attorney of record, guardian ad litem, if any, and foster parents, if any, of the child whose parental rights were terminated or surrendered and the child's former parent whose parental rights were terminated or

surrendered. The former parent and foster parents, if any, shall have a right to be heard at the hearing to reinstate parental rights but shall not be parties at such hearing, and such hearing may be conducted in their absence. A child's motion shall be dismissed if his or her former parent cannot be located or if such parent objects to the reinstatement.

(c) The court shall grant the petition if it finds by clear and convincing evidence that a child is no longer likely to be adopted and that reinstatement of parental rights is in the child's best interests. In determining whether reinstatement is in the child's best interests the court shall consider, but not be limited to, the following:

(1) Whether a parent whose rights are to be reinstated is a fit parent and has remedied his or her deficits as provided in the record of the prior termination proceedings and prior termination order;

(2) The age and maturity of a child and the ability of such child to express his or her preference;

(3) Whether the reinstatement of parental rights will present a risk to a child's health, welfare, or safety; and

(4) Other material changes in circumstances, if any, that may have occurred which warrant the granting of the petition.

(d) If the court grants the petition to reinstate parental rights, a review hearing shall be scheduled within six months. During such period, the court may order that a child be immediately placed in the custody of his or her parent or, if the court determines that a transition period is necessary and such child is in DFCS custody at the time of the order, order DFCS to provide transition services to the family as appropriate.

(e) An order granted under this Code section reinstates a parent's rights to his or her child. Such reinstatement shall be a recognition that the situation of the parent and his or her child has changed since the time of the termination of parental rights and reunification is now appropriate.

(f) This Code section is intended to be retroactive and applied to any child who is under the jurisdiction of the court at the time of the hearing regardless of the date parental rights were terminated. (Code 1981, § 15-11-323, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

ARTICLE 5
CHILD IN NEED OF SERVICES

PART 1
GENERAL PROVISIONS

15-11-380. (Effective January 1, 2014) Purpose of article.

The purpose of this article is:

(1) To acknowledge that certain behaviors or conditions occurring within a family or school environment indicate that a child is experiencing serious difficulties and is in need of services and corrective action in order to protect such child from the irreversibility of certain choices and to protect the integrity of such child's family;

(2) To make family members aware of their contributions to their family's problems and to encourage family members to accept the responsibility to participate in any program of care ordered by the court;

(3) To provide a child with a program of treatment, care, guidance, counseling, structure, supervision, and rehabilitation that he or she needs to assist him or her in becoming a responsible and productive member of society; and

(4) To ensure the cooperation and coordination of all agencies having responsibility to supply services to any member of a family referred to the court. (Code 1981, § 15-11-380, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-381. (Effective January 1, 2014) Definitions.

As used in this article, the term:

(1) "Comprehensive services plan" means an interagency treatment, habilitation, support, or supervision plan developed collaboratively by state or local agency representatives, parties, and other interested persons following a court's finding that a child is incompetent to proceed.

(2) "Habilitation" means the process by which a child is helped to acquire and maintain those life skills which will enable him or her to cope more effectively with the demands of his or her own person and

of his or her environment and to raise the level of his or her physical, mental, social, and vocational abilities.

(3) “Plan manager” means a person who is under the supervision of the court and is appointed by the court to convene a meeting of all relevant parties for the purpose of developing a comprehensive services plan.

(4) “Runaway” means a child who without just cause and without the consent of his or her parent, guardian, or legal custodian is absent from his or her home or place of abode for at least 24 hours.

(5) “Status offense” means an act prohibited by law which would not be an offense if committed by an adult.

(6) “Truant” means having ten or more days of unexcused absences from school in the current academic year. (Code 1981, § 15-11-381, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

PART 2

INFORMAL PROCEDURES

15-11-390. (Effective January 1, 2014) Filing of complaint.

(a) A complaint alleging a child is a child in need of services may be filed by a parent, guardian, or legal custodian, DFCS, a school official, a law enforcement officer, a guardian ad litem, or an attorney who has knowledge of the facts alleged or is informed and believes that such facts are true.

(b) The complaint shall set forth plainly and with particularity:

(1) The name, date of birth, and residence address of the child alleged to be a child in need of services;

(2) The names and residence addresses of the parent, guardian, or legal custodian, any other family members, or any other individuals living within such child's home;

(3) The name of any public institution or agency having the responsibility or ability to supply services alleged to be needed by such child; and

(4) Whether any of the matters required by this subsection are unknown.

(c) When a school official is filing a complaint alleging a child is a child in need of services, information shall be included which shows that:

(1) The legally liable school district has sought to resolve the expressed problem through available educational approaches; and

(2) The school district has sought to engage the parent, guardian, or legal custodian of such child in solving the problem but such person has been unwilling or unable to do so, that the problem remains, and that court intervention is needed.

(d) When a school official is filing a complaint alleging a child is a child in need of services involving a child who is eligible or suspected to be eligible for services under the federal Individuals with Disabilities Education Act or Section 504 of the federal Rehabilitation Act of 1973, information shall be included which demonstrates that the legally liable school district:

(1) Has determined that such child is eligible or suspected to be eligible under the federal Individuals with Disabilities Education Act or Section 504 of the federal Rehabilitation Act of 1973; and

(2) Has reviewed for appropriateness such child's current Individualized Education Program (IEP) and placement and has made modifications where appropriate.

(e) The juvenile court intake officer shall be responsible for receiving complaints alleging that a child is a child in need of services. (Code 1981, § 15-11-390, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

U.S. Code. — The Individuals with

Disabilities Education Act, referred to in this Code section, is codified at 20 U.S.C. § 1400 et seq.

Section 504 of the federal Rehabilitation Act of 1973, referred to in this Code section, is codified at 29 U.S.C. § 794.

PART 3

FORMAL COURT PROCEDURES

15-11-400. (Effective January 1, 2014) Child in need of services; time limitations for continued custody or temporary custody hearings.

(a) The continued custody hearing for a child alleged to be a child in need of services shall be held promptly and no later than:

(1) Seventy-two hours after such child is taken into temporary custody if he or she is being held in a secure residential facility or nonsecure residential facility; or

(2) Five days after such child is placed in foster care, provided that, if the five-day time frame expires on a weekend or legal holiday, the hearing shall be held on the next day which is not a weekend or legal holiday.

(b) If a child alleged to be a child in need of services was never taken into temporary custody or is released from temporary custody at the continued custody hearing, the following time frames apply:

(1) The petition for a child in need of services shall be filed:

(A) Within 30 days of the filing of the complaint with the juvenile court; or

(B) Within 30 days of such child's release from temporary custody;

(2) Summons shall be served at least 72 hours before the adjudication hearing;

(3) An adjudication hearing shall be scheduled to be held no later than 60 days after the filing of the petition for a child in need of services; and

(4) If not held in conjunction with an adjudication hearing, a disposition hearing shall be held and completed within 30 days after the conclusion of an adjudication hearing.

(c) If a child alleged to be a child in need of services is not released from temporary custody at the continued custody hearing, the following time frames apply:

(1) The petition for a child in need of services shall be filed within five days of the continued custody hearing;

(2) Summons shall be served at least 72 hours before an adjudication hearing;

(3) An adjudication hearing shall be scheduled to be held no later than ten days after the filing of the petition for a child in need of services; and

(4) If not held in conjunction with an adjudication hearing, a disposition hearing shall be held and completed within 30 days after the conclusion of an adjudication hearing. (Code 1981, § 15-11-400, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-401. (Effective January 1, 2014) Child in need of services; venue.

(a) A proceeding under this article may be commenced in the county in which the act complained of took place or in the county in which the child alleged to be a child in need of services legally resides.

(b) If a proceeding is commenced in the county in which the act complained of took place, the court shall transfer the case to the county in which the child alleged to be a child in need of services legally resides for further proceedings.

(c) When a proceeding is transferred, certified copies of all legal and social documents and records on file with the clerk of court pertaining to the proceeding shall accompany such transfer. (Code 1981, § 15-11-401, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-402. (Effective January 1, 2014) Right to attorney and appointment of guardian ad litem.

(a) The court shall appoint an attorney for a child alleged to be a child in need of services.

(b) The court shall appoint a CASA to act as a guardian ad litem whenever possible, and a CASA may be appointed in addition to an attorney who is serving as a guardian ad litem.

(c) The court may appoint a guardian ad litem for a child alleged to be a child in need of services at the request of such child's attorney or upon the court's own motion if it determines that a guardian ad litem is necessary to assist the court in determining the best interests of such child; provided, however, that such guardian ad litem may be the same person as the child's attorney unless or until there is a conflict of interest between the attorney's duty to such child as such child's attorney and the attorney's considered opinion of such child's best interests as guardian ad litem.

(d) The role of a guardian ad litem in a proceeding for a child in need of services shall be the same role as provided for in all dependency proceedings under Article 3 of this chapter.

(e) If an attorney or a guardian ad litem has previously been appointed for a child in a dependency or delinquency proceeding, the court, when possible, shall appoint the same attorney or guardian ad litem for a child alleged to be a child in need of services.

(f) An attorney appointed to represent a child in a proceeding for a child in need of services shall continue representation in any subsequent appeals unless excused by the court.

(g) A child alleged to be a child in need of services shall be informed of his or her right to an attorney at or prior to the first court proceeding for a child in need of services. A child alleged to be a child in need of services shall be given an opportunity to:

(1) Obtain and employ an attorney of his or her own choice; or

(2) To obtain a court appointed attorney if the court determines that such child is an indigent person. (Code 1981, § 15-11-402, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed

effective date note at the beginning of this chapter.

15-11-403. (Effective January 1, 2014) Continuance of a hearing in child in need of services proceedings.

A continuance shall be granted only upon a showing of good cause and only for that period of time shown to be necessary by the moving party at the hearing on such motion. Whenever any continuance is granted, the facts which require the continuance shall be entered into the court record. (Code 1981, § 15-11-403, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed

effective date note at the beginning of this chapter.

15-11-404. (Effective January 1, 2014) Case plan for a child alleged or found to be a child in need of services.

If a child is alleged or adjudicated to be a child in need of services and is placed in foster care, the child shall be required to have a case plan. In addition to the case plan requirements of Code Section 15-11-201, a case plan shall include:

(1) A description of such child's strengths and needs;

(2) A description of such child's specific parental strengths and needs;

(3) A description of other personal, family, or environmental problems that may contribute to such child's behaviors;

(4) A description of the safety, physical, and mental health needs of such child;

(5) Identification of the least restrictive placement to safeguard such child's best interests and protect the community;

(6) An assessment of the availability of community resources to address such child's and his or her family's needs;

(7) An assessment of the availability of court diversion services; and

(8) An assessment of the availability of other preventive measures. (Code 1981, § 15-11-404, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-405. (Effective January 1, 2014) Termination of proceedings relating to a runaway child.

Any proceeding or other processes or actions alleging for the first time that a child is a runaway shall be terminated or dismissed upon the request of such child's parent, guardian, or legal custodian. (Code 1981, § 15-11-405, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

PART 4

PREADJUDICATION CUSTODY AND RELEASE OF CHILDREN

15-11-410. (Effective January 1, 2014) Taking a child into temporary custody.

(a) A child may be taken into temporary custody under this article:

(1) Pursuant to a court order; or

(2) By a law enforcement officer when there are reasonable grounds to believe that a child has run away from his or her parent, guardian, or legal custodian or the circumstances are such as to endanger a child's health or welfare unless immediate action is taken.

(b) Before entering an order authorizing temporary custody, the court shall consider the results of a detention assessment and determine whether continuation in the home is contrary to a child's welfare and whether there are available services that would prevent the need for custody. The court shall make such determination on a case-by-case

basis and shall make written findings of fact referencing any and all evidence relied upon in reaching its decision.

(c) A person taking a child into temporary custody shall deliver such child, with all reasonable speed and without first taking such child elsewhere, to a medical facility if he or she is believed to suffer from a serious physical condition or illness which requires prompt treatment and, upon delivery, shall promptly contact a juvenile court intake officer. Immediately upon being notified by the person taking such child into custody, the juvenile court intake officer shall administer a detention assessment and determine if such child should be released, remain in temporary custody, or be brought before the court. (Code 1981, § 15-11-410, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-411. (Effective January 1, 2014) Temporary custody; time limitations.

(a) A person taking a child into temporary custody pursuant to Code Section 15-11-410 shall not exercise custody over such child except for a period of 12 hours.

(b) Immediately after a child is taken into custody, every effort shall be made to contact such child’s parents, guardian, or legal custodian.

(c) If a parent, guardian, or legal custodian has not assumed custody of his or her child at the end of the 12 hour period described in subsection (a) of this Code section, the court shall be notified and shall place such child in the least restrictive placement consistent with such child’s needs for protection or control in the custody of such child’s parents, guardian, or legal custodian upon such person’s promise to bring such child before the court when requested by the court; provided, however, that if such placement is not available, such child shall be placed in the custody of DFCS which shall promptly arrange for foster care of such child. (Code 1981, § 15-11-411, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

Code Commission notes. — Pursuant to Code Section 28-9-5, in 2013, “is” was inserted in subsection (b).

15-11-412. (Effective January 1, 2014) Temporary detention; place of custody.

(a) A child alleged to be a child in need of services may be held in a secure residential facility or nonsecure residential facility until a continued custody hearing is held, provided that a detention assessment has been administered and such child is not held in a secure residential facility or nonsecure residential facility for more than 24 hours and any of the following apply:

(1) It is alleged that such child is a runaway;

(2) It is alleged that such child is habitually disobedient of the reasonable and lawful commands of his or her parent, guardian, or legal custodian and is ungovernable; or

(3) Such child has previously failed to appear at a scheduled hearing.

(b) A child alleged to be a child in need of services placed in a secure residential facility or nonsecure residential facility pursuant to subsection (a) of this Code section may be appointed an attorney prior to the continued custody hearing.

(c) In no case shall a child alleged to be or adjudicated as a child in need of services in custody be detained in a jail, adult lock-up, or other adult detention facility. (Code 1981, § 15-11-412, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed

effective date note at the beginning of this chapter.

15-11-413. (Effective January 1, 2014) Continued custody hearing.

(a) If a child alleged to be a child in need of services is being held in a secure residential facility or nonsecure residential facility, a continued custody hearing shall be held within 72 hours. If such hearing is not held within the time specified, such child shall be released from temporary detention in accordance with subsection (c) of Code Section 15-11-411 and with authorization of the detaining authority.

(b) If a child alleged to be a child in need of services is not being held in a secure residential facility or nonsecure residential facility and has not been released to the custody of such child's parent, guardian, or legal custodian, a hearing shall be held promptly and not later than five days after such child is placed in foster care, provided that, if the five-day time frame expires on a weekend or legal holiday, the hearing shall be held on the next day which is not a weekend or legal holiday.

(c) At the commencement of a continued custody hearing, the court shall inform the parties of:

- (1) The nature of the allegations;
- (2) The nature of the proceedings;

(3) The possible consequences or dispositions that may apply to such child's case following adjudication; and

(4) Their due process rights, including the right to an attorney and to an appointed attorney; the privilege against self-incrimination; that he or she may remain silent and that anything said may be used against him or her; the right to confront anyone who testifies against him or her and to cross-examine any persons who appear to testify against him or her; the right to testify and to compel other witnesses to attend and testify in his or her own behalf; the right to a speedy adjudication hearing; and the right to appeal and be provided with a transcript for such purpose. (Code 1981, § 15-11-413, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed

effective date note at the beginning of this chapter.

15-11-414. (Effective January 1, 2014) Continued custody hearing; findings.

(a) At a continued custody hearing, the court shall determine whether there is probable cause to believe that a child has committed a status offense or is otherwise a child in need of services and that continued custody is necessary.

(b) If the court determines there is probable cause to believe that a child has committed a status offense or is otherwise in need of services, the court may order that such child:

(1) Be released to the custody of his or her parent, guardian, or legal custodian; or

(2) Be placed in the least restrictive placement consistent with such child's need for protection and control as authorized by Code Section 15-11-411 and in accordance with Code Section 15-11-415.

(c) If the court determines there is probable cause to believe that such child has committed a status offense or is otherwise in need of services, the court shall:

(1) Refer such child and his or her family for a community based risk reduction program; or

(2) Order that a petition for a child in need of services be filed and set a date for an adjudication hearing.

(d) Following a continued custody hearing, the court may detain a child alleged to be a child in need of services in a secure residential facility or nonsecure residential facility for up to 72 hours, excluding weekends and legal holidays, only for the purpose of providing adequate time to arrange for an appropriate alternative placement pending the adjudication hearing.

(e) All orders shall contain written findings as to the form or conditions of a child's release. If a child alleged to be a child in need of services cannot be returned to the custody of his or her parent, guardian, or legal custodian at the continued custody hearing, the court shall state the facts upon which the continued custody is based. The court shall make the following findings of fact referencing any and all evidence relied upon to make its determinations:

(1) Whether continuation in the home of such child's parent, guardian, or legal custodian is contrary to such child's welfare; and

(2) Whether reasonable efforts have been made to safely maintain such child in the home of his or her parent, guardian, or legal custodian and to prevent or eliminate the need for removal from such home. Such finding shall be made at the continued custody hearing if possible but in no case later than 60 days following such child's removal from his or her home. (Code 1981, § 15-11-414, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed

effective date note at the beginning of this chapter.

15-11-415. (Effective January 1, 2014) Detention decision; findings.

(a) Restraints on the freedom of a child prior to adjudication shall be imposed only when there is probable cause to believe that a child committed the act of which he or she is accused, there is clear and convincing evidence that such child's freedom should be restrained, that no less restrictive alternatives will suffice, and:

(1) Such child's detention or care is required to reduce the likelihood that he or she may inflict serious bodily harm on others during the interim period;

(2) Such child's detention is necessary to secure his or her presence in court to protect the jurisdiction and processes of the court; or

(3) An order for such child's detention has been made by the court.

(b) A child alleged to be a child in need of services shall not be detained:

- (1) To punish, treat, or rehabilitate such child;
- (2) To allow his or her parent, guardian, or legal custodian to avoid his or her legal responsibilities;
- (3) To satisfy demands by a victim, law enforcement, or the community;
- (4) To permit more convenient administrative access to him or her;
- (5) To facilitate further interrogation or investigation; or
- (6) Due to a lack of a more appropriate facility.

(c) Whenever a child alleged to be a child in need of services cannot be unconditionally released, conditional or supervised release that results in the least necessary interference with the liberty of such child shall be favored over more intrusive alternatives.

(d) Whenever the curtailment of the freedom of a child alleged to be a child in need of services is permitted, the exercise of authority shall reflect the following values:

- (1) Respect for the privacy, dignity, and individuality of such child and his or her family;
- (2) Protection of the psychological and physical health of such child;
- (3) Tolerance of the diverse values and preferences among different groups and individuals;
- (4) Assurance of equality of treatment by race, class, ethnicity, and sex;
- (5) Avoidance of regimentation and depersonalization of such child;
- (6) Avoidance of stigmatization of such child; and
- (7) Assurance that such child has been informed of his or her right to consult with an attorney and that, if the child is an indigent person, an attorney will be provided.

(e) Before entering an order authorizing detention, the court shall determine whether a child's continuation in his or her home is contrary to his or her welfare and whether there are available services that would prevent or eliminate the need for detention. The court shall make such determination on a case-by-case basis and shall make written findings of fact referencing any and all evidence relied upon in reaching its decision.

(f) If a child alleged to be a child in need of services can remain in the custody of his or her parent, guardian, or legal custodian through the

provision of services to prevent the need for removal, the court shall order that such services shall be provided. (Code 1981, § 15-11-415, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed

effective date note at the beginning of this chapter.

PART 5

PETITION AND SUMMONS

15-11-420. (Effective January 1, 2014) Authority to file petition.

A petition alleging that a child is a child in need of services may be made by any person, including a law enforcement officer, who has knowledge of the facts alleged or is informed and believes that such facts are true. Such petition shall not be filed unless the court or a person authorized by the court has determined and endorsed on the petition that the filing of the petition is in the best interests of the public and such child. (Code 1981, § 15-11-420, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed

effective date note at the beginning of this chapter.

15-11-421. (Effective January 1, 2014) Time limitations for filing petition.

(a) If a child alleged to be a child in need of services is not released from temporary custody at a continued custody hearing, a petition seeking an adjudication that such child is a child in need of services shall be filed within five days of such continued custody hearing.

(b) If a child alleged to be a child in need of services was never taken into temporary custody or is released from temporary custody at a continued custody hearing, a petition seeking an adjudication that such child is a child in need of services shall be filed:

(1) Within 30 days of the filing of the complaint with the juvenile court intake officer; or

(2) Within 30 days of such child's release from temporary custody.

(c) Upon a showing of good cause and notice to all parties, the court may grant a requested extension of time for filing a petition seeking an adjudication that a child is a child in need of services in accordance with the best interests of the child. The court shall issue a written order reciting the facts justifying the extension.

(d) If no petition seeking an adjudication that a child is a child in need of services is filed within the required time frame, the complaint may be dismissed without prejudice. (Code 1981, § 15-11-421, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-422. (Effective January 1, 2014) Content of petitions.

(a) A petition seeking an adjudication that a child is a child in need of services shall be verified and may be on information and belief. It shall set forth plainly and with particularity:

(1) The facts which bring a child within the jurisdiction of the court, with a statement that it is in the best interests of the child and the public that the proceeding be brought;

(2) The name, date of birth, and residence address of the child alleged to be a child in need of services;

(3) The name and residence address of the parent, guardian, or legal custodian of the child named in the petition; or, if such child's parent, guardian, or legal custodian does not reside or cannot be found within the state or if such place of residence address is unknown, the name of any known adult relative of such child residing within the county or, if there is none, the known adult relative of such child residing nearest to the location of the court;

(4) The name and age of any other family member of such child living within such child's home;

(5) Whether all available and appropriate attempts to encourage voluntary use of community services by such child's family have been exhausted; and

(6) Whether any of the information required by this subsection is unknown.

(b) If a petition seeking an adjudication that a child is a child in need of services is based on a complaint filed by a school official, such petition shall be dismissed unless it includes information which shows that:

(1) The legally liable school district has sought to resolve the expressed problem through available educational approaches; and

(2) The school district has sought to engage such child's parent, guardian, or legal custodian in solving the problem but any such individual has been unwilling or unable to do so; that the problem remains; and that court intervention is needed.

(c) If a petition seeking an adjudication that a child is a child in need of services is based on a complaint filed by a school official involving a child who is eligible or suspected to be eligible for services under the federal Individuals with Disabilities Education Act or Section 504 of the federal Rehabilitation Act of 1973, such petition shall be dismissed unless it includes information which demonstrates that the legally liable school district:

(1) Has determined that such child is eligible or suspected to be eligible under the federal Individuals with Disabilities Education Act or Section 504 of the federal Rehabilitation Act of 1973; and

(2) Has reviewed for appropriateness such child's current Individualized Education Program (IEP) and placement and has made modifications where appropriate. (Code 1981, § 15-11-422, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

U.S. Code. — The Individuals with

Disabilities Education Act, referred to in this Code section, is codified at 20 U.S.C. § 1400 et seq.

Section 504 of the federal Rehabilitation Act of 1973, referred to in this Code section, is codified at 29 U.S.C. § 794.

15-11-423. (Effective January 1, 2014) Issuance of summons.

(a) The court shall direct the issuance of a summons to the child alleged to be a child in need of services, his or her parent, guardian, or legal custodian, DFCS and any other public agencies or institutions providing services, and any other persons who appear to the court to be proper or necessary parties to such child in need of services proceeding requiring them to appear before the court at the time fixed to answer the allegations of the petition seeking an adjudication that a child is in need of services. A copy of such petition shall accompany the summons.

(b) The summons shall state that a party is entitled to an attorney in the proceedings and that the court will appoint an attorney if the party is an indigent person.

(c) A party other than a child may waive service of summons by written stipulation or by voluntary appearance at the hearing. (Code 1981, § 15-11-423, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed

effective date note at the beginning of this chapter.

15-11-424. (Effective January 1, 2014) Service of summons.

(a) If a party to be served with a summons pursuant to Code Section 15-11-423 is within this state and can be found, the summons shall be served upon him or her personally as soon as possible and at least 72 hours before the adjudication hearing.

(b) If a party to be served is within this state and cannot be found but his or her address is known or can be ascertained with due diligence, the summons shall be served upon such party at least five days before an adjudication hearing by mailing him or her a copy by registered or certified mail or statutory overnight delivery, return receipt requested.

(c) If a party to be served is outside this state but his or her address is known or can be ascertained with due diligence, service of the summons shall be made at least five days before an adjudication hearing either by delivering a copy to such party personally or by mailing a copy to him or her by registered or certified mail or statutory overnight delivery, return receipt requested.

(d) Service of the summons may be made by any suitable person under the direction of the court.

(e) The court may authorize payment from county funds of the costs of service and of necessary travel expenses incurred by persons summoned or otherwise required to appear at the hearing on the petition seeking an adjudication that a child is in need of services. (Code 1981, § 15-11-424, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-425. (Effective January 1, 2014) Sanctions for failure to obey summons.

(a) In the event a parent, guardian, or legal custodian of a child alleged to be a child in need of services willfully fails to appear personally at a hearing on the petition seeking an adjudication that a child is a child in need of services after being ordered to so appear or such parent, guardian, or legal custodian willfully fails to bring such child to such hearing after being so directed, the court may issue a rule nisi against the person directing the person to appear before the court to show cause why he or she should not be held in contempt of court.

(b) If a parent, guardian, or legal custodian of the child alleged to be a child in need of services fails to appear in response to an order to show cause, the court may issue a bench warrant directing that such parent, guardian, or legal custodian be brought before the court without delay

to show cause why he or she should not be held in contempt and the court may enter any order authorized by the provisions of Code Section 15-11-31.

(c) In the event an agency representative willfully fails to appear at a hearing on the petition seeking an adjudication that a child is a child in need of services after being ordered to so appear, the court may direct the appropriate agency representative to appear before the court to show cause why a contempt order should not be issued.

(d) If a child 16 years of age or older fails to appear at a hearing on a petition seeking an adjudication that such child is a child in need of services after being ordered to so appear, the court may issue a bench warrant requiring that such child be brought before the court without delay and the court may enter any order authorized by the provisions of Code Section 15-11-31.

(e) If there is sworn testimony that a child 14 years of age but not yet 16 years of age willfully refuses to appear at a hearing on a petition seeking an adjudication that such child is a child in need of services after being ordered to so appear, the court may issue a bench warrant requiring that such child be brought before the court and the court may enter any order authorized by the provisions of Code Section 15-11-31. (Code 1981, § 15-11-425, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

PART 6

ADJUDICATION, DISPOSITION, AND REVIEWS

15-11-440. (Effective January 1, 2014) Standard of proof.

The petitioner has the burden of proving the allegations of a child in need of services petition by clear and convincing evidence. (Code 1981, § 15-11-440, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-441. (Effective January 1, 2014) Adjudication hearing.

(a) If a child alleged to be a child in need of services is in continued custody but not in a secure residential facility or nonsecure residential facility, the adjudication hearing shall be scheduled to be held no later than ten days after the filing of the petition seeking an adjudication

that such child is a child in need of services. If such child is not in continued custody, the adjudication hearing shall be scheduled to be held no later than 60 days after the filing of such petition.

(b) At the conclusion of the adjudication hearing, the court shall determine whether such child is a child in need of services. (Code 1981, § 15-11-441, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-442. (Effective January 1, 2014) Disposition hearing; time limitations; disposition of a child in need of services.

(a) If the court finds that a child is a child in need of services, a final disposition hearing shall be held and completed within 60 days of the conclusion of the adjudication hearing.

(b) The court shall order the least restrictive and most appropriate disposition. Such disposition may include:

(1) Permitting such child to remain with his or her caregiver without limitations or conditions;

(2) Permitting such child to remain with his or her caregiver subject to such limitations and conditions as the court may prescribe;

(3) Placing such child on probation or unsupervised probation on such terms and conditions as deemed in the best interests of such child and the public. An order granting probation to a child in need of services may be revoked on the ground that the terms and conditions of the probation have not been observed;

(4) Requiring that such child perform community service in a manner prescribed by the court and under the supervision of an individual designated by the court;

(5) Requiring that such child make restitution. A restitution order may remain in force and effect simultaneously with another order of the court. Payment of funds shall be made by such child or his or her family or employer directly to the clerk of the juvenile court entering the order or another employee of that court designated by the judge, and such court shall disburse such funds in the manner authorized in the order. While an order requiring restitution is in effect, the court may transfer enforcement of its order to:

(A) The juvenile court of the county of such child's residence and its probation staff, if he or she changes his or her place of residence; or

(B) A superior court once such child reaches 18 years of age if he or she thereafter comes under the jurisdiction of the superior court;

(6) Imposing a fine on such child who has committed an offense which, if committed by an adult, would be a violation under the criminal laws of this state or has violated an ordinance or bylaw of a county, city, town, or consolidated government. Such fine shall not exceed the fine which may be imposed against an adult for the same offense;

(7) Requiring such child to attend structured after-school or evening programs or other court approved programs as well as requiring supervision of such child during the time of the day in which he or she most often used to perform the acts complained of in the petition alleging that such child is a child in need of services;

(8) Any order authorized for the disposition of a dependent child;

(9) Any order authorized for the disposition of a delinquent child except that a child in need of services shall not be placed in a secure residential facility or nonsecure residential facility nor shall such facility accept such child; or

(10) Any combination of the dispositions set forth in paragraphs (1) through (9) of this subsection as the court deems to be in the best interests of a child and the public.

(c) All disposition orders shall include written findings of the basis for the disposition and such conditions as the court imposes and a specific plan of the services to be provided. (Code 1981, § 15-11-442, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-443. (Effective January 1, 2014) Duration of disposition orders.

(a) An order of disposition shall be in effect for the shortest time necessary to accomplish the purposes of the order and for not more than two years. A written disposition order shall state the length of time the order is to be in effect. An order of extension may be made if:

(1) A hearing is held prior to the expiration of the order upon motion of DFCS, DJJ, the prosecuting attorney, or on the court's own motion;

(2) Reasonable notice of the factual basis of the motion and of the hearing and opportunity to be heard are given to the parties affected;

(3) The court finds that the extension is necessary to accomplish the purposes of the order extended; and

(4) The extension does not exceed two years from the expiration of the prior order.

(b) The court may terminate an order of disposition or an extension of such a disposition order prior to its expiration, on its own motion or an application of a party, if it appears to the court that the purposes of the order have been accomplished.

(c) When a child adjudicated as a child in need of services reaches 18 years of age, all orders affecting him or her then in force shall terminate and he or she shall be discharged from further obligation or control. (Code 1981, § 15-11-443, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

Cross references. — Age of majority, § 39-1-1.

15-11-444. (Effective January 1, 2014) Probation revocation.

(a) An order granting probation to a child adjudicated to be a child in need of services may be revoked on the ground that the conditions of probation have been violated.

(b) Any violation of a condition of probation may be reported to any person authorized to make a petition alleging that a child is in need of services as set forth in Code Section 15-11-420. A motion for revocation of probation shall contain specific factual allegations constituting each violation of a condition of probation.

(c) A motion for revocation of probation shall be served upon the child, his or her attorney, and parent, guardian, or legal custodian in accordance with the provisions of Code Section 15-11-424.

(d) If a child in need of services is taken into custody because of the alleged violation of probation, the provisions governing the detention of a child under this article shall apply.

(e) A revocation hearing shall be scheduled to be held no later than 30 days after the filing of a motion to revoke probation.

(f) If the court finds, beyond a reasonable doubt, that a child in need of services violated the terms and conditions of probation, the court may:

(1) Extend his or her probation;

(2) Impose additional conditions of probation; or

(3) Make any disposition that could have been made at the time probation was imposed. (Code 1981, § 15-11-444, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-445. (Effective January 1, 2014) Disposition reviews; time limitations.

The court shall review the disposition of a child in need of services at least once within three months after such disposition and at least every six months thereafter so long as the order of disposition is in effect. (Code 1981, § 15-11-445, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

PART 7

MENTAL HEALTH

15-11-450. (Effective January 1, 2014) Comprehensive services plan for child found unrestorably incompetent to proceed; plan manager.

(a) After determining, in accordance with the provisions of Article 7 of this chapter, that a child alleged to be a child in need of services in a petition under this article or who has been alleged to have committed a delinquent act is unrestorably incompetent to proceed and the court orders that procedures for a comprehensive services plan be initiated, the court shall appoint a plan manager, if one has not already been appointed, to direct the development of a comprehensive services plan for such child.

(b) The plan manager shall convene all relevant parties to develop a comprehensive services plan. A plan manager shall request that the following persons attend such meeting:

- (1) The parent, guardian, or legal custodian of such child;
- (2) Such child's attorney;
- (3) The person who filed the petition alleging that a child is in need of services or committed a delinquent act;
- (4) Such child's guardian ad litem, if any;
- (5) Mental health or developmental disabilities representatives;

(6) Such child's caseworker;

(7) A representative from such child's school; and

(8) Any family member of such child who has shown an interest and involvement in such child's well-being.

(c) A plan manager may request that other relevant persons attend a comprehensive services plan meeting, including but not limited to the following:

(1) A representative from the Department of Public Health;

(2) A DFCS caseworker;

(3) Representatives of the public and private resources to be utilized in the plan; and

(4) Other persons who have demonstrated an ongoing commitment to the child.

(d) A plan manager shall be responsible for collecting all previous histories of such child, including, but not limited to, previous evaluations, assessments, and school records, and for making such histories available for consideration by the persons at the comprehensive services plan meeting.

(e) Unless a time extension is granted by the court, a plan manager shall submit the comprehensive services plan to the court within 30 days of the entry of the court's disposition order for a child adjudicated to be unrestorably incompetent to proceed under Article 7 of this chapter. The plan shall include the following:

(1) An outline of the specific provisions for supervision of such child for protection of the community and such child;

(2) An outline of a plan designed to provide treatment, habilitation, support, or supervision services for a child in the least restrictive environment;

(3) If such child's evaluation recommends inpatient treatment, certification by such plan manager that all other appropriate community based treatment options have been exhausted; and

(4) Identification of all parties responsible for each element of the plan, including such child, agency representatives, and other persons.

(f) A plan manager shall also be responsible for:

(1) Convening a meeting of all parties and representatives of all agencies prior to the comprehensive services plan hearing and review hearings;

(2) Identifying to the court any person who should provide testimony at the comprehensive services plan hearing; and

(3) Monitoring the comprehensive services plan, presenting to the court amendments to the plan as needed, and presenting evidence to the court for the reapproval of the plan at subsequent review hearings. (Code 1981, § 15-11-450, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-451. (Effective January 1, 2014) Hearing on mental health plan; time limitations.

(a) The court shall hold a comprehensive services plan hearing within 30 days after the comprehensive services plan has been submitted to the court for the purpose of approving the plan. Thereafter, the court shall hold a comprehensive services plan hearing every six months for the purpose of reviewing such child's condition and approving the comprehensive services plan.

(b) The persons required to be notified of a comprehensive services plan hearing and witnesses identified by a plan manager shall be given at least ten days' prior notice of the hearing and any subsequent hearing to review such child's condition and shall be afforded an opportunity to be heard at any such hearing. The victim, if any, of a child's alleged delinquent act shall also be provided with the same ten days' prior notice and shall be afforded an opportunity to be heard and to present a victim impact form as provided in Code Section 17-10-1.1 to the court at the comprehensive services plan hearing. The judge shall make a determination regarding sequestration of witnesses in order to protect the privileges and confidentiality rights of a child adjudicated to be unrestorably incompetent to proceed under Article 7 of this chapter.

(c) At the comprehensive services plan hearing, the court shall enter an order incorporating a comprehensive services plan as part of the disposition of the comprehensive services plan hearing. At the time of the disposition, a child shall be placed in an appropriate treatment setting, as recommended by the examiner, unless such child has already been placed in an appropriate treatment setting pursuant to subsection (d) of Code Section 15-11-656.

(d) If, during the comprehensive services plan hearing or any subsequent review hearing, the court determines that a child meets criteria for civil commitment, such child may be committed to an appropriate treatment setting.

(e) At any time, in the event of a change in circumstances regarding such child, the court on its own motion or on the motion of the attorney representing such child, any guardian ad litem for such child, the person who filed the petition alleging that a child is in need of services or committed a delinquent act, or the plan manager may set a hearing for review of the comprehensive services plan and any proposed amendments to such plan. The court may issue an appropriate order incorporating an amended plan.

(f) If a child is under a comprehensive services plan when he or she reaches the age of 18, the plan manager shall make a referral for appropriate adult services. (Code 1981, § 15-11-451, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

Cross references. — Age of majority, § 39-1-1.

ARTICLE 6 DELINQUENCY

PART 1

GENERAL PROVISIONS

15-11-470. (Effective January 1, 2014) Purpose of article.

The purpose of this article is:

(1) Consistent with the protection of the public interest, to hold a child committing delinquent acts accountable for his or her actions, taking into account such child's age, education, mental and physical condition, background, and all other relevant factors, but to mitigate the adult consequences of criminal behavior;

(2) To accord due process of law to each child who is accused of having committed a delinquent act;

(3) To provide for a child committing delinquent acts with supervision, care, and rehabilitation which ensure balanced attention to the protection of the community, the imposition of accountability, and the development of competencies to enable such child to become a responsible and productive member of the community;

(4) To promote a continuum of services for a child and his or her family from prevention of delinquent acts to aftercare, considering, whenever possible, prevention, diversion, and early intervention, including an emphasis on community based alternatives;

(5) To provide effective sanctions to acts of juvenile delinquency; and

(6) To strengthen families and to successfully reintegrate delinquent children into homes and communities. (Code 1981, § 15-11-470, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-471. (Effective January 1, 2014) Definitions.

As used in this article, the term:

(1) “AIDS transmitting crime” shall have the same meaning as set forth in Code Section 31-22-9.1.

(2) “Behavioral health evaluation” means a court ordered evaluation completed by a licensed psychologist or psychiatrist of a child alleged to have committed or adjudicated of a delinquent act so as to provide the juvenile court with information and recommendations relevant to the behavioral health status and mental health treatment needs of such child.

(3) “Community rehabilitation center” means a rehabilitation and custodial center established within a county for the purpose of assisting in the rehabilitation of delinquent children and children in need of services in a neighborhood and family environment in cooperation with community educational, medical, and social agencies. Such center shall:

(A) Be located within any county having a juvenile court presided over by at least one full-time judge exercising jurisdiction exclusively over juvenile matters; and

(B) Be operated by a nonprofit corporation organized under Chapter 3 of Title 14, the “Georgia Nonprofit Corporation Code,” and have a full-time chief executive officer. The charter, bylaws, and method of selecting the board of directors and chief executive officer of such nonprofit corporation shall be subject to the unanimous approval of the chief judge of the judicial circuit in which the county is located, the judge or judges of the juvenile court, the superintendent of the county school district, and the commissioner of juvenile justice; such approval shall be in writing and shall be appended to the charter and bylaws of the nonprofit organization. Any amendment of the charter or bylaws of the nonprofit corporation shall be subject to the same written approval as the original charter and bylaws.

(4) “Determined to be infected with HIV” means having a confirmed positive human immunodeficiency virus (HIV) test or having been clinically diagnosed as having AIDS.

(5) “Graduated sanctions” means:

(A) Verbal and written warnings;

(B) Increased restrictions and reporting requirements;

(C) Community service;

(D) Referral to treatment and counseling programs in the community;

(E) Weekend programming;

(F) Electronic monitoring, as such term is defined in Code Section 42-8-151;

(G) Curfew;

(H) An intensive supervision program; or

(I) A home confinement program.

(6) “Hearing officer” means a DJJ employee or county juvenile probation office employee, as applicable, who has been selected and appointed by DJJ or the county juvenile probation office, as applicable, to hear cases alleging violations of probation for administrative sanctioning. A hearing officer shall not be a probation officer who has direct supervision over the child who is the subject of the hearing.

(7) “HIV test” means any antibody, antigen, viral particle, viral culture, or other test to indicate the presence of HIV in the human body, and such test has been approved for such purposes by the regulations of the Department of Community Health.

(8) “Intensive supervision” means the monitoring of a child’s activities on a more frequent basis than regular aftercare supervision, pursuant to regulations of the commissioner of juvenile justice.

(9) “Low risk” means the lowest risk to recidivate as calculated by a risk assessment.

(10) “Moderate risk or high risk” means a calculation by a risk assessment that is not low risk.

(11) “Probation management program” means a special condition of probation that includes graduated sanctions.

(12) “Secure probation sanctions program” means confinement in a secure residential facility or nonsecure residential facility for seven,

14, or 30 days. (Code 1981, § 15-11-471, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed

effective date note at the beginning of this chapter.

15-11-472. (Effective January 1, 2014) Delinquency case time limitations.

(a) A detention hearing shall be held promptly and no later than:

(1) Two business days after an alleged delinquent child is placed in preadjudication custody if he or she is taken into custody without an arrest warrant; or

(2) Five business days after an alleged delinquent child is placed in preadjudication custody if he or she is taken into custody pursuant to an arrest warrant.

(b) If an alleged delinquent child is placed in preadjudication custody without an arrest warrant and the detention hearing cannot be held within 48 hours because the expiration of the 48 hours falls on a weekend or legal holiday, the court shall review the detention assessment and the decision to detain such child and make a finding based on probable cause within 48 hours of such child being placed in preadjudication custody.

(c) If an alleged delinquent child is released from preadjudication custody at the detention hearing or was never taken into custody, the following time frames shall apply:

(1) Any petition alleging delinquency shall be filed within 30 days of the filing of the complaint or within 30 days after such child is released from preadjudication custody. If a complaint was not filed, the complaint shall be filed within the statute of limitations as provided by Chapter 3 of Title 17;

(2) Summons shall be served at least 72 hours before the adjudication hearing;

(3) The arraignment hearing shall be scheduled no later than 30 days after the filing of the petition alleging delinquency;

(4) The adjudication hearing shall be held no later than 60 days from the filing of the petition alleging delinquency unless a continuance is granted as provided in Code Section 15-11-478; and

(5) The disposition hearing shall be held within 30 days of the adjudication hearing unless the court makes written findings of fact explaining the delay.

(d) If an alleged delinquent child is not released from preadjudication custody at the detention hearing, the following time frames shall apply:

(1) The petition alleging delinquency shall be filed within 72 hours of the detention hearing;

(2) Summons shall be served at least 72 hours before the adjudication hearing;

(3) The adjudication hearing shall be held no later than ten days after the filing of the petition alleging delinquency unless a continuance is granted as provided in Code Section 15-11-478; and

(4) The disposition hearing shall be held within 30 days of the adjudication hearing unless the court makes written findings of fact explaining the delay.

(e) For purposes of this Code section, preadjudication custody begins when a juvenile court intake officer authorizes the placement of a child in a secure residential facility.

(f) A child who is released from detention but subject to conditions of release shall not be considered to be in detention for purposes of calculating time frames set forth in this article or for purposes of calculating time served. (Code 1981, § 15-11-472, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-473. (Effective January 1, 2014) Conduct of delinquency proceeding by prosecuting attorney; access to information.

(a) A prosecuting attorney shall conduct delinquency proceedings on behalf of the state.

(b) Except as provided in Article 9 of this chapter, in any delinquency proceeding, the prosecuting attorney shall be entitled to complete access to all court files, probation files, hearing transcripts, delinquency reports, and any other juvenile court records. It shall be the duty of the clerk, probation and intake officer, probation officers of the juvenile court, and DJJ to assist a prosecuting attorney in obtaining any requested items. (Code 1981, § 15-11-473, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

Cross references. — Prosecuting attorneys, T. 15, C. 18.

15-11-474. (Effective January 1, 2014) Parties in a delinquency proceeding; notice to DJJ.

(a) An alleged delinquent child and the state shall be parties at all stages of delinquency proceedings.

(b) A parent, guardian, or legal custodian of an alleged delinquent child shall have the right to notice, the right to be present in the courtroom, and the opportunity to be heard at all stages of delinquency proceedings.

(c) DJJ shall receive notice of the disposition hearing. (Code 1981, § 15-11-474, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-475. (Effective January 1, 2014) Right to attorney; waiver.

(a) An alleged delinquent child shall have the right to be represented by an attorney at all proceedings under this article.

(b) A parent, guardian, or legal custodian of an alleged delinquent child shall not waive his or her child's right to be represented by an attorney.

(c) An alleged delinquent child may waive the right to an attorney under limited circumstances as set forth in subsection (b) of Code Section 15-11-511, but if a child's liberty is in jeopardy, he or she shall be represented by an attorney.

(d) Upon a motion by an attorney for an alleged delinquent child, together with written permission of such child, a judge shall issue an order providing that such child's attorney shall have access to all dependency, school, hospital, physician, or other health or mental health care records relating for such child. (Code 1981, § 15-11-475, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-476. (Effective January 1, 2014) Appointment of guardian ad litem.

(a) The court shall appoint a CASA to act as a guardian ad litem whenever possible, and a CASA may be appointed in addition to an attorney who is serving as a guardian ad litem.

(b) The court shall appoint a separate guardian ad litem whenever:

(1) An alleged delinquent child appears before the court without his or her parent, guardian, or legal custodian;

(2) It appears to the court that a parent, guardian, or legal custodian of an alleged delinquent child is incapable or unwilling to make decisions in the best interests of such child with respect to proceedings under this article such that there may be a conflict of interest between such child and his or her parent, guardian, or legal custodian; or

(3) The court finds that it is otherwise in a child's best interests to do so.

(c) The role of a guardian ad litem in a delinquency proceeding shall be the same role as provided for in all dependency proceedings under Article 3 of this chapter.

(d) Neither a child's attorney in a delinquency proceeding nor his or her parent, guardian, or legal custodian shall prohibit or impede access to such child by the guardian ad litem. (Code 1981, § 15-11-476, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-477. (Effective January 1, 2014) Orders for behavioral health evaluations.

(a) At any time prior to the issuance of a final dispositional order, the court may order a behavioral health evaluation of a child alleged to be or adjudicated as a delinquent child which may be conducted by DBHDD or a private psychologist or psychiatrist.

(b) The court shall order and give consideration to the results of a child's behavioral health evaluation before ordering a child adjudicated for a class A designated felony act or class B designated felony act placed in restrictive custody; provided, however, that such order shall not be required if the court has considered the results of a prior behavioral health evaluation of such child that had been completed in the preceding six months.

(c) Statements made by a child during a behavioral health evaluation shall only be admissible into evidence as provided in Code Section 15-11-479. (Code 1981, § 15-11-477, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-478. (Effective January 1, 2014) Continuance of a hearing in delinquency proceedings.

A continuance shall be granted only upon a showing of good cause and only for that period of time shown to be necessary by the moving party at the hearing on the motion. Whenever any continuance is granted, the facts which require the continuance shall be entered into the court record. (Code 1981, § 15-11-478, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-479. (Effective January 1, 2014) Admissions to court personnel inadmissible; exceptions.

Voluntary statements made in the course of intake screening of a child alleged to be or adjudicated as a delinquent child or in the course of his or her treatment, any evaluation, or any other related services shall be inadmissible in any adjudication hearing in which such child is the accused and shall not be considered by the court except such statement shall be admissible as rebuttal or impeachment evidence. (Code 1981, § 15-11-479, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-480. (Effective January 1, 2014) When jeopardy attaches.

(a) When a child enters a denial to a petition alleging his or her delinquency, jeopardy attaches when the first witness is sworn at the adjudication hearing.

(b) When a child enters an admission to a petition alleging his or her delinquency, jeopardy attaches when the court accepts the admission. (Code 1981, § 15-11-480, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-481. (Effective January 1, 2014) Victim impact statement in delinquency proceedings.

(a) The victim of a child's alleged delinquent act shall be entitled to the same rights, notices, and benefits as the victim of a crime committed by an adult as set forth in Chapters 14, 15, 15A, and 17 of Title 17. The rights, notices, and benefits to a victim set forth in this article shall not be construed to deny or diminish the rights, notices, and benefits set forth in Chapters 14, 15, 15A, and 17 of Title 17.

(b) In any delinquency proceeding in which a petition has been filed, the prosecuting attorney shall notify any victim of a child's alleged delinquent act that the victim may submit a victim impact form as provided in Code Section 17-10-1.1.

(c) The provisions of subsection (e) of Code Section 17-10-1.1 shall apply to the use and disclosure of the victim impact form.

(d) Prior to the imposition of a dispositional order for a child adjudicated for a delinquent act, the juvenile court shall permit the victim, the family of the victim, or other witness with personal knowledge of the delinquent act to testify about the impact of the delinquent act on the victim, the victim's family, or the community. Except as provided in subsection (f) of this Code section, such evidence shall be given in the presence of the child adjudicated for a delinquent act and shall be subject to cross-examination.

(e) The admissibility of the evidence described in subsection (d) of this Code section shall be in the sole discretion of the judge and in any event shall be permitted only in such a manner and to such a degree as not to unduly prejudice the child adjudicated for a delinquent act. If the judge excludes evidence, the state shall be allowed to make an offer of proof.

(f) Upon a finding by the court specific to the case and the witness that the witness would not be able to testify in person without showing undue emotion or that testifying in person will cause the witness severe physical or emotional distress or trauma, evidence presented pursuant to subsection (b) of this Code section may be in the form of, but not limited to, a written statement or a prerecorded audio or video statement, provided that such witness is subject to cross-examination. Photographs of the victim may be included with any evidence presented pursuant to subsection (b) of this Code section.

(g) In presenting such evidence, the victim, the family of the victim, or other witness having personal knowledge of the impact of the

delinquent act on the victim, the victim's family, or the community shall, if applicable:

- (1) Describe the nature of the delinquent act;
- (2) Itemize any economic loss suffered by the victim or the family of the victim, if restitution is sought;
- (3) Identify any physical injury suffered by the victim as a result of the delinquent act along with its seriousness and permanence;
- (4) Describe any change in the victim's personal welfare or familial relationships as a result of the delinquent act;
- (5) Identify any request for psychological services initiated by the victim or the victim's family as a result of the delinquent act; and
- (6) Include any other information related to the impact of the delinquent act upon the victim, the victim's family, or the community that the court inquires of.

(h) The court shall allow the child adjudicated for a delinquent act the opportunity to cross-examine and rebut the evidence presented of the victim's personal characteristics and the emotional impact of the delinquent act on the victim, the victim's family, or the community, and such cross-examination and rebuttal evidence shall be subject to the same discretion set forth in subsection (d) of this Code section.

(i) No disposition of a child adjudicated as delinquent shall be invalidated because of failure to comply with the provisions of this Code section. This Code section shall not be construed to create any cause of action or any right of appeal on behalf of the victim, the state, or such child; provided, however, that if the court intentionally fails to comply with this Code section, the victim may file a complaint with the Judicial Qualifications Commission. (Code 1981, § 15-11-481, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

PART 2

VENUE IN DELINQUENCY PROCEEDINGS

15-11-490. (Effective January 1, 2014) Venue; transfers between juvenile courts.

(a) A proceeding under this article may be commenced:

- (1) In the county in which an allegedly delinquent child legally resides; or

(2) In any county in which the alleged delinquent acts occurred.

(b) If the adjudicating court finds that a nonresident child has committed a delinquent act, the adjudicating court may retain jurisdiction over the disposition of a nonresident child or may transfer the proceeding to the county of such child's residence for disposition. Like transfer may be made if the residence of such child changes pending the proceeding.

(c) If the adjudicating court retains jurisdiction, prior to making any order for disposition of a nonresident child, the adjudicating court shall communicate to the court of the county of such child's residence the fact that such child has been adjudicated to have committed a delinquent act. Such communication shall state the date upon which the adjudicating court plans to enter an order for disposition of such nonresident child and shall request any information or recommendations relevant to the disposition of such nonresident child. Any such recommendation shall be considered by but shall not be binding upon the adjudicating court in making its order for disposition.

(d) When any case is transferred, certified copies of all documents and records pertaining to the case on file with the clerk of the court shall accompany the transfer order. Compliance with this subsection shall terminate jurisdiction in the transferring court and initiate jurisdiction in the receiving court. (Code 1981, § 15-11-490, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed

effective date note at the beginning of this chapter.

PART 3

CUSTODY AND RELEASE OF CHILD

15-11-500. (Effective January 1, 2014) Order to take child into immediate custody.

If it appears from a filed affidavit or from sworn testimony before the court that the conduct, condition, or surroundings of an alleged delinquent child are endangering such child's health or welfare or those of others or that such child may abscond or be removed from the jurisdiction of the court or will not be brought before the court, notwithstanding the service of the summons, the court may endorse upon the summons an order that a law enforcement officer shall serve the summons and take such child into immediate custody and bring him or her forthwith before the court. (Code 1981, § 15-11-500, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-501. (Effective January 1, 2014) Taking child into custody; notice to custodian; notification of prosecuting attorney.

(a) An alleged delinquent child may be taken into custody:

(1) Pursuant to an order of the court under this article, including an order to a DJJ employee to apprehend:

(A) When he or she has escaped from an institution or facility operated by DJJ; or

(B) When he or she has been placed under supervision and has violated its conditions;

(2) Pursuant to the laws of arrest; or

(3) By a law enforcement officer or duly authorized officer of the court if there are reasonable grounds to believe that a child has committed a delinquent act.

(b) A law enforcement officer taking a child into custody shall promptly give notice together with a statement of the reasons for taking such child into custody to his or her parent, guardian, or legal custodian and to the court.

(c) When a child who is taken into custody has committed an act which would constitute a felony if committed by an adult, the juvenile court, within 48 hours after it learns of such child having been taken into custody, shall notify the prosecuting attorney of the judicial circuit in which the juvenile proceedings are to be instituted. (Code 1981, § 15-11-501, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-502. (Effective January 1, 2014) Procedure after taking child into custody; detention.

(a) A person taking an alleged delinquent child into custody, with all reasonable speed and without first taking such child elsewhere, shall:

(1) Immediately release such child, without bond, to his or her parent, guardian, or legal custodian upon such person's promise to bring such child before the court when requested by the court;

(2) Immediately deliver such child to a medical facility if such child is believed to suffer from a serious physical condition or illness which requires prompt treatment and, upon delivery, shall promptly contact a juvenile court intake officer. Immediately upon being notified by the person taking such child into custody, the juvenile court intake officer shall determine if such child can be administered a detention assessment and if so, shall conduct such assessment and determine if such child should be released, remain in protective custody, or be brought before the court; or

(3) Bring such child immediately before the juvenile court or promptly contact a juvenile court intake officer. The court or juvenile court intake officer shall determine if such child should be released or detained. All determinations and court orders regarding detention shall comply with the requirements of this article and shall be based on an individual detention assessment of such child and his or her circumstances.

(b) Notwithstanding subsection (a) of this Code section, a law enforcement officer may detain an alleged delinquent child for a reasonable period of time sufficient to conduct interrogations and perform routine law enforcement procedures including but not limited to fingerprinting, photographing, and the preparation of any necessary records.

(c) Prior to a detention hearing, an alleged delinquent child shall be placed in detention, if necessary, only in such places as are authorized by Code Section 15-11-504. (Code 1981, § 15-11-502, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed

effective date note at the beginning of this chapter.

15-11-503. (Effective January 1, 2014) Detention decision; findings.

(a) Restraints on the freedom of an alleged delinquent child prior to adjudication shall be imposed only when there is probable cause to believe that such child committed the act of which he or she is accused, that there is clear and convincing evidence that such child's freedom should be restrained, that no less restrictive alternatives will suffice, and that:

(1) Such child's detention or care is required to reduce the likelihood that he or she may inflict serious bodily harm on others during the interim period;

(2) Such child has a demonstrated pattern of theft or destruction of property such that detention is required to protect the property of others;

(3) Such child's detention is necessary to secure his or her presence in court to protect the jurisdiction and processes of the court; or

(4) An order for such child's detention has been made by the court.

(b) All children who are detained shall be informed of their right to bail as provided by Code Section 15-11-507.

(c) An alleged delinquent child shall not be detained:

(1) To punish, treat, or rehabilitate him or her;

(2) To allow his or her parent, guardian, or legal custodian to avoid his or her legal responsibilities;

(3) To satisfy demands by a victim, law enforcement, or the community;

(4) To permit more convenient administrative access to him or her;

(5) To facilitate further interrogation or investigation; or

(6) Due to a lack of a more appropriate facility.

(d) Whenever an alleged delinquent child cannot be unconditionally released, conditional or supervised release that results in the least necessary interference with the liberty of such child shall be favored over more intrusive alternatives.

(e) Whenever the curtailment of the freedom of an alleged delinquent child is permitted, the exercise of authority shall reflect the following values:

(1) Respect for the privacy, dignity, and individuality of such child and his or her family;

(2) Protection of the psychological and physical health of such child;

(3) Tolerance of the diverse values and preferences among different groups and individuals;

(4) Assurance of equality of treatment by race, class, ethnicity, and sex;

(5) Avoidance of regimentation and depersonalization of such child;

(6) Avoidance of stigmatization of such child; and

(7) Assurance that such child has been informed of his or her right to consult with an attorney and that, if such child is an indigent person, an attorney will be provided.

(f) Before entering an order authorizing detention, the court shall determine whether a child's continuation in his or her home is contrary

to his or her welfare and whether there are available services that would prevent or eliminate the need for detention. The court shall make that determination on a case-by-case basis and shall make written findings of fact referencing any and all evidence relied upon in reaching its decision.

(g) If an alleged delinquent child can remain in the custody of his or her parent, guardian, or legal custodian through the provision of services to prevent the need for removal, the court shall order that such services shall be provided. (Code 1981, § 15-11-503, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed

effective date note at the beginning of this chapter.

15-11-504. (Effective January 1, 2014) Place of detention; data on child detained.

(a) An alleged delinquent child may be detained only in:

- (1) A licensed foster home;
- (2) A home approved by the court which may be a public or private home;
- (3) The home of such child's noncustodial parent or of a relative;
- (4) A facility operated by a licensed child welfare agency; or
- (5) A secure residential facility or nonsecure residential facility.

(b) Placement shall be made in the least restrictive facility available consistent with the best interests of the child.

(c) A child 15 years of age or older and alleged to be a delinquent child may be held in a jail or other facility for the detention of adults for identification or processing procedures or while awaiting transportation only so long as necessary to complete such activities for up to six hours, or for up to 24 hours if the closest secure residential facility is more than 70 miles from such facility, if all of the following apply:

- (1) Such child is detained for the commission of a crime that would constitute a class A designated felony act, class B designated felony act, or a serious violent felony as defined in Code Section 17-10-6.1;
- (2) Such child is awaiting a detention hearing;
- (3) Such child's detention hearing is scheduled within 24 hours after being taken into custody, excluding weekends and legal holidays;
- (4) There is no existing acceptable alternative placement for such child; and

(5) The jail or other facility for the detention of adults provides sight and sound separation for children, including:

(A) Total separation between children and adult facility spatial areas such that there is no verbal, visual, or physical contact and there could be no haphazard or accidental contact between child and adult residents in the respective facilities;

(B) Total separation in all program activities for children and adults within the facilities, including recreation, education, counseling, health care, dining, sleeping, and general living activities;

(C) Continuous visual supervision of a child; and

(D) Separate staff for children and adults, specifically direct care staff such as recreation, education, and counseling, although specialized services staff, such as cooks, bookkeepers, and medical professionals who are not normally in contact with detainees or whose infrequent contacts occur under conditions of separation of children and adults, can serve both.

(d) A child shall not be transported with adults who have been charged with or convicted of a crime. DJJ may transport a child with children who have been charged with or convicted of a crime in superior court.

(e) The official in charge of a jail or other facility for the detention of adult offenders or persons charged with a crime shall inform the court or the juvenile court intake officer immediately when a child who appears to be under the age of 17 years is received at such facility and shall deliver such child to the court upon request or transfer such child to the facility designated by the juvenile court intake officer or the court.

(f) All facilities shall maintain data on each child detained and such data shall be recorded and retained by the facility for three years and shall be made available for inspection during normal business hours by any court exercising juvenile court jurisdiction, by DJJ, by the Governor's Office for Children and Families, and by the Council of Juvenile Court Judges. The required data are each detained child's:

(1) Name;

(2) Date of birth;

(3) Sex;

(4) Race;

(5) Offense or offenses for which such child is being detained;

(6) Date of and authority for confinement;

(7) Location of the offense and the name of the school if the offense occurred in a school safety zone, as defined in Code Section 16-11-127.1;

(8) The name of the referral source, including the name of the school if the referring source was a school;

(9) The score on the detention assessment;

(10) The basis for detention if such child's detention assessment score does not in and of itself mandate detention;

(11) The reason for detention, which may include, but shall not be limited to, preadjudication detention, detention while awaiting a postdisposition placement, or serving a short-term program disposition;

(12) Date of and authority for release or transfer; and

(13) Transfer or to whom released. (Code 1981, § 15-11-504, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-505. (Effective January 1, 2014) Use of detention assessments to determine if detention is warranted.

If an alleged delinquent child is brought before the court or delivered to a secure residential facility or nonsecure residential facility or foster care facility designated by the court, the juvenile court intake officer shall immediately administer a detention assessment and determine if such child should be detained and release such child unless it appears that his or her detention is warranted. (Code 1981, § 15-11-505, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-506. (Effective January 1, 2014) Detention hearing; time limitations.

(a) A detention hearing shall be held to determine whether preadjudication custody of an alleged delinquent child is required. If such hearing is not held within the time specified, such child shall be released from detention or foster care.

(b) If an alleged delinquent child is detained and is not released from preadjudication custody, a detention hearing shall be held promptly and not later than:

(1) Two business days after such child is placed in preadjudication custody if such child is taken into custody without an arrest warrant; or

(2) Five business days after such child is placed in preadjudication custody if such child is taken into custody pursuant to an arrest warrant.

(c) If the detention hearing cannot be held within two business days in accordance with paragraph (1) of subsection (b) of this Code section because the date for the hearing falls on a weekend or legal holiday, the court shall review the decision to detain such child and make a finding based on probable cause within 48 hours of such child being placed in preadjudication custody.

(d) Reasonable oral or written notice of the detention hearing, stating the time, place, and purpose of the hearing, shall be given to an alleged delinquent child and to his or her parent, guardian, or legal custodian, if he or she can be found. In the event such child's parent, guardian, or legal custodian cannot be found, the court shall forthwith appoint a guardian ad litem for such child.

(e) If an alleged delinquent child is not released from preadjudication custody and his or her parent, guardian, or legal custodian or guardian ad litem, if any, has not been notified of the hearing and did not appear or waive appearance at such hearing and thereafter files an affidavit showing such facts, the court shall rehear the matter without unnecessary delay and shall order such child's release unless it appears from such hearing that such child's detention or foster care is warranted or required.

(f) At the commencement of the detention hearing, the court shall inform an alleged delinquent child of:

(1) The contents of the complaint or petition;

(2) The nature of the proceedings;

(3) The right to make an application for bail, as provided by Code Section 15-11-507 and Title 17;

(4) The possible consequences or dispositions that may apply to such child's case following adjudication; and

(5) His or her due process rights, including the right to an attorney and to an appointed attorney; the privilege against self-incrimination; that he or she may remain silent and that any-

thing said may be used against him or her; the right to confront anyone who testifies against him or her and to cross-examine any persons who appear to testify against him or her; the right to testify and to compel other witnesses to attend and testify in his or her own behalf; the right to a speedy adjudication hearing; and the right to appeal and be provided with a transcript for such purpose.

(g) If an alleged delinquent child can be returned to the custody of his or her parent, guardian, or legal custodian through the provision of services to eliminate the need for removal, the court shall release such child to the physical custody of his or her parent, guardian, or legal custodian and order that those services shall be provided.

(h) If an alleged delinquent child cannot be returned to the custody of his or her parent, guardian, or legal custodian, a probation officer shall provide referrals for services as soon as possible to enable such child's parent, guardian, or legal custodian to obtain any assistance that may be needed to effectively provide the care and control necessary for such child to return home.

(i) For purposes of this Code section, preadjudication custody begins when a juvenile court intake officer authorizes the placement of a child in a secure residential facility. (Code 1981, § 15-11-506, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed

effective date note at the beginning of this chapter.

15-11-507. (Effective January 1, 2014) Bail.

(a) All children alleged to have committed a delinquent act shall have the same right to bail as adults.

(b) The judge shall admit to bail all children in the same manner and under the same circumstances and procedures as are applicable to adults accused of the commission of crimes, with the exception that applying for bail, holding a hearing on the application, and granting bail for children alleged to have committed a delinquent act may only occur:

(1) At intake in accordance with Code Section 15-11-503; or

(2) At the detention hearing in accordance with Code Section 15-11-506.

(c) A court shall be authorized to release an alleged delinquent child on bail if the court finds that such child:

(1) Poses no significant risk of fleeing from the jurisdiction of the court or failing to appear in court when required;

(2) Poses no significant threat or danger to any person, to the community, or to any property in the community;

(3) Poses no significant risk of committing any felony pending trial; and

(4) Poses no significant risk of intimidating witnesses or otherwise obstructing the administration of justice.

(d) If a child is accused of committing an act that would be a serious violent felony, as defined in Code Section 17-10-6.1, if committed by an adult and such child has previously been adjudicated for a delinquent act for committing an act that would be a serious violent felony if committed by an adult, there shall be a rebuttable presumption that no condition or combination of conditions will reasonably assure the appearance of such child as required or assure the safety of any other person or the community.

(e) Any person having legal custody or an adult blood relative or stepparent of an alleged delinquent child shall be entitled to post bail but shall be required immediately to return such child to the individual or entity having legal custody of such child.

(f) For the purposes of this Code section, the term “bail” shall include the releasing of a child on his or her own recognizance. (Code 1981, § 15-11-507, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

Cross references. — Bonds and recognizances, T. 17, C. 6. Prohibition against

excessive bail, U.S. Const., amend. 8 and Ga. Const. 1983, Art. I, Sec. I, Para. XVII. Bonds and first appearance, Uniform State Court Rules, Rule 26.1. Bond hearings in Juvenile Court, Uniform Rules for the Juvenile Courts of Georgia, Rules 9.1 and 9.2.

15-11-508. (Effective January 1, 2014) Definitions related to and instructions on notification to victim of child’s release from detention.

(a) As used in this Code section, the term:

(1) “Notice” shall have the same meaning as set forth in Code Section 17-17-3.

(2) “Victim” shall have the same meaning as set forth in Code Section 17-17-3.

(3) “Violent delinquent act” means to commit, attempt to commit, conspiracy to commit, or solicitation of another to commit a delinquent act which if committed by an adult would constitute:

(A) A serious violent felony as defined by Code Section 17-10-6.1;

(B) A class A designated felony act or class B designated felony act;

(C) Stalking or aggravated stalking as provided by Article 7 of Chapter 5 of Title 16; or

(D) Any attempt to commit, conspiracy to commit, or solicitation of another to commit an offense enumerated in subparagraphs (A) through (C) of this paragraph.

(b) If a child accused of a violent delinquent act is detained pending adjudication, a juvenile court intake officer shall provide notice to the victim, whenever practicable, that such child is to be released from detention not less than 24 hours prior to such child's release from detention.

(c) Not less than 48 hours prior to a child who has been adjudicated to have committed a violent delinquent act being released from detention or transferred to a nonsecure residential facility, a juvenile court intake officer shall, whenever practicable, provide notice to the victim of such pending release or transfer.

(d) Victim notification need not be given unless a victim has expressed a desire for such notification and has provided a juvenile court intake officer with a current address and telephone number. It shall be the duty of a juvenile court intake officer to advise the victim of his or her right to notification and of the requirement of the victim to provide a primary and personal telephone number to which such notification shall be directed. (Code 1981, § 15-11-508, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

PART 4

INTAKE OR ARRAIGNMENT

15-11-510. (Effective January 1, 2014) Intake; informal adjustment.

(a) If an alleged delinquent child has not been detained after the filing of a complaint, he or she shall be promptly referred to intake or given a date for arraignment.

(b) At intake, the court, the juvenile court intake officer, or other officer designated by the court shall inform a child of:

- (1) The contents of the complaint;
- (2) The nature of the proceedings;

(3) The possible consequences or dispositions that may apply to such child's case following adjudication; and

(4) His or her due process rights, including the right to an attorney and to an appointed attorney; the privilege against self-incrimination; that he or she may remain silent and that anything said may be used against him or her; the right to confront anyone who testifies against him or her and to cross-examine any persons who appear to testify against him or her; the right to testify and to compel other witnesses to attend and testify in his or her own behalf; the right to a speedy adjudication hearing; and the right to appeal and be provided with a transcript for such purpose.

(c) A juvenile court intake officer may elect to pursue a case through informal adjustment or other nonadjudicatory procedure in accordance with the provisions of Code Section 15-11-515.

(d) If a case is to be prosecuted further and handled other than by informal adjustment or other nonadjudicatory procedure, a referral shall be made to the prosecuting attorney and a petition for delinquency shall be filed within 30 days of the filing of a complaint. (Code 1981, § 15-11-510, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-511. (Effective January 1, 2014) Arraignment; admissions at arraignment; right to attorney.

(a) At arraignment, the court shall inform a child of:

(1) The contents of the petition alleging delinquency;

(2) The nature of the proceedings;

(3) The possible consequences or dispositions that may apply to such child's case following adjudication; and

(4) His or her due process rights, including the right to an attorney and to an appointed attorney; the privilege against self-incrimination; that he or she may remain silent and that anything said may be used against him or her; the right to confront anyone who testifies against him or her and to cross-examine any persons who appear to testify against him or her; the right to testify and to compel other witnesses to attend and testify in his or her own behalf; the right to a speedy adjudication hearing; and the right to appeal and be provided with a transcript for such purpose.

(b) The court may accept an admission at arraignment and may proceed immediately to disposition if a child is represented by counsel

at arraignment or if a child's liberty is not in jeopardy, he or she may waive the right to counsel at arraignment. A child represented by counsel or whose liberty is not in jeopardy may make a preliminary statement indicating whether he or she plans to admit or deny the allegations of the complaint at the adjudication hearing, but the court shall not accept an admission from a child whose liberty is in jeopardy and who is unrepresented by counsel.

(c) The court shall appoint an attorney to represent an alleged delinquent child whose liberty is in jeopardy and who is an indigent person. (Code 1981, § 15-11-511, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

PART 5

INFORMAL ADJUSTMENT

15-11-515. (Effective January 1, 2014) Informal adjustment; circumstances; admissions; exceptions.

(a) Before a petition for informal adjustment is filed, a probation officer or other officer designated by the court, subject to the court's direction, may inform the parties of informal adjustment if it appears that:

(1) The admitted facts bring the case within the jurisdiction of the court;

(2) Counsel and advice without an adjudication would be in the best interests of the public and a child, taking into account at least the following factors:

(A) The nature of the alleged offense;

(B) The age and individual circumstances of such child;

(C) Such child's prior record, if any;

(D) Recommendations for informal adjustment made by the complainant or the victim; and

(E) Services to meet such child's needs and problems may be unavailable within the formal court system or may be provided more effectively by alternative community programs; and

(3) A child and his or her parent, guardian, or legal custodian consent with knowledge that consent is not obligatory.

(b) The giving of counsel and advice shall not extend beyond three months unless extended by the court for an additional period not to exceed three months and shall not authorize the detention of a child if not otherwise permitted by this article.

(c) An incriminating statement made by a participant in an informal adjustment to the person giving counsel or advice and in the discussion or conferences incident thereto shall not be used against the declarant over objection in any hearing except in a hearing on disposition in a juvenile court proceeding or in a criminal proceeding upon conviction for the purpose of a presentence investigation.

(d) If a child is alleged to have committed a class A designated felony act or class B designated felony act, the case shall not be subject to informal adjustment, counsel, or advice without the prior consent of the district attorney or his or her authorized representative. (Code 1981, § 15-11-515, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

PART 6

DELINQUENCY PETITION

15-11-520. (Effective January 1, 2014) Authority to file petition.

A petition alleging delinquency shall be filed by an attorney as set forth in Code Section 15-18-6.1. (Code 1981, § 15-11-520, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-521. (Effective January 1, 2014) Time limitations for filing petition.

(a) If a child is in detention prior to adjudication, a petition alleging delinquency shall be filed not later than 72 hours after the detention hearing. If no petition alleging delinquency is filed within the applicable time, such child shall be released from detention and the complaint shall be dismissed without prejudice. Such petition may be refiled as provided in subsection (b) of this Code section within the statute of limitations.

(b) If a child is not in detention prior to adjudication, a petition alleging delinquency shall be filed within 30 days of the filing of the

complaint alleging violation of a criminal law or within 30 days of such child's release pursuant to a determination that detention is not warranted. Upon a showing of good cause and notice to all parties, the court may grant an extension of time for filing a petition alleging delinquency. The court shall issue a written order reciting the facts justifying any extension. (Code 1981, § 15-11-521, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-522. (Effective January 1, 2014) Contents of petition.

A petition alleging delinquency shall be verified and may be on information and belief. It shall set forth plainly and with particularity:

(1) The facts which bring a child within the jurisdiction of the court, with a statement that it is in the best interests of such child and the public that the proceeding be brought and that such child is in need of supervision, treatment, or rehabilitation, as the case may be;

(2) The name, age, and residence address of such child on whose behalf such petition is brought;

(3) The name and residence address of such child's parent, guardian, or legal custodian; or, if such child's parent, guardian, or legal custodian does not reside or cannot be found within this state or if such place of residence address is unknown, the name of any of such child's known adult relative residing within the county or, if there is none, such child's known adult relative residing nearest to the location of the court;

(4) If a child is in custody, the place of his or her detention and the time such child was taken into custody;

(5) If a child is being charged with a class A designated felony act or class B designated felony act; and

(6) Whether any of the information required by this Code section is unknown. (Code 1981, § 15-11-522, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-523. (Effective January 1, 2014) Amendment of petition.

(a) A prosecuting attorney may amend a petition alleging delinquency at any time prior to the commencement of the adjudication hearing. However, if an amendment is made, a child may request a continuance of his or her adjudication hearing. A continuance may be granted by the court for such period as required in the interest of justice.

(b) When a petition alleging delinquency is amended to include material changes to the allegations or new charges of delinquency for adjudication, the petition shall be served in accordance with Code Sections 15-11-530 and 15-11-531.

(c) After jeopardy attaches, a petition alleging delinquency shall not be amended to include new charges of delinquency. (Code 1981, § 15-11-523, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

PART 7**SUMMONS AND SERVICE****15-11-530. (Effective January 1, 2014) Issuance of summons.**

(a) The court shall direct the issuance of a summons to a child and his or her parent, guardian, or legal custodian requiring them to appear before the court at the time fixed to answer the allegations of a petition alleging delinquency. A copy of the petition shall accompany the summons.

(b) The summons shall state that a party shall be entitled to have an attorney in the proceedings and that the court will appoint an attorney if the party is an indigent person. (Code 1981, § 15-11-530, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-531. (Effective January 1, 2014) Service of summons.

(a) If a party to be served with a summons is within this state and can be found, the summons shall be served upon him or her personally as soon as possible and at least 24 hours before the adjudication hearing.

(b) If a party to be served is within this state and cannot be found but his or her address is known or can be ascertained with due diligence, the summons shall be served upon such party at least five days before the adjudication hearing by mailing him or her a copy by registered or certified mail or statutory overnight delivery, return receipt requested.

(c) If an individual to be served is outside this state but his or her address is known or can be ascertained with due diligence, notice of the summons shall be made at least five days before the adjudication hearing either by delivering a copy to such party personally or by mailing a copy to him or her by registered or certified mail or statutory overnight delivery, return receipt requested.

(d) Service of the summons may be made by any suitable person under the direction of the court.

(e) The court may authorize payment from county funds of the costs of service and of necessary travel expenses incurred by persons summoned or otherwise required to appear at the hearing. (Code 1981, § 15-11-531, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed

effective date note at the beginning of this chapter.

15-11-532. (Effective January 1, 2014) Sanctions for failure to obey summons.

(a) In the event a child's parent, guardian, or legal custodian willfully fails to appear personally at a hearing on a petition alleging delinquency after being ordered to so appear or a child's parent, guardian, or legal custodian willfully fails to bring such child to a hearing after being so directed, the court may issue a rule nisi against the person directing the person to appear before the court to show cause why he or she should not be held in contempt of court.

(b) If a parent, guardian, or legal custodian of the alleged delinquent child fails to appear in response to an order to show cause, the court may issue a bench warrant directing that such parent, guardian, or legal custodian be brought before the court without delay to show cause why he or she should not be held in contempt and the court may enter any order authorized by the provisions of Code Section 15-11-31.

(c) If a child 16 years of age or older fails to appear at a hearing on a petition alleging delinquency after being ordered to so appear, the court may issue a bench warrant requiring that such child be brought before the court without delay and the court may enter any order authorized by the provisions of Code Section 15-11-31.

(d) If there is sworn testimony that a child 14 years of age but not yet 16 years of age willfully refuses to appear at a hearing on a petition

alleging delinquency after being ordered to so appear, the court may issue a bench warrant requiring that such child be brought before the court and the court may enter any order authorized by the provisions of Code Section 15-11-31. (Code 1981, § 15-11-532, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

PART 8

PREADJUDICATION PROCEDURES

15-11-540. (Effective January 1, 2014) Motion for dismissal.

A delinquency petition shall be dismissed by the court upon the motion of the prosecuting attorney setting forth that there is not sufficient evidence to warrant further proceedings. (Code 1981, § 15-11-540, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-541. (Effective January 1, 2014) Discovery procedures.

(a) Except as limited by subsection (d) of Code Section 15-11-542, in all cases in which a child is charged with having committed a delinquent act, such child shall, upon filing a motion for discovery with the court and serving a copy of the motion to the prosecuting attorney, have full access to the following for inspection, copying, or photographing:

- (1) A copy of the complaint;
- (2) A copy of the petition for delinquency;
- (3) The names and last known addresses and telephone numbers of each witness to the occurrence which forms the basis of the charge;
- (4) A copy of any written statement made by such child or any witness that relates to the testimony of a person whom the prosecuting attorney intends to call as a witness;
- (5) A copy of any written statement made by any alleged coparticipant which the prosecuting attorney intends to use at a hearing;
- (6) Transcriptions, recordings, and summaries of any oral statement of such child or of any witness, except attorney work product;

(7) Any scientific or other report which is intended to be introduced at the hearing or that pertains to physical evidence which is intended to be introduced;

(8) Photographs and any physical evidence which are intended to be introduced at the hearing; and

(9) Copies of the police incident report and supplemental report, if any, regarding the occurrence which forms the basis of the charge.

(b) The prosecuting attorney shall disclose all evidence, known or that may become known to him or her, favorable to such child and material either to guilt or punishment.

(c) If a child requests disclosure of information pursuant to subsection (a) of this Code section, it shall be the duty of such child to promptly make the following available for inspection, copying, or photographing to the prosecuting attorney:

(1) The names and last known addresses and telephone numbers of each witness to the occurrence which forms the basis of the defense;

(2) Any scientific or other report which is intended to be introduced at the hearing or that pertains to physical evidence which is intended to be introduced;

(3) Photographs and any physical evidence which he or she intends to introduce at the hearing; and

(4) A copy of any written statement made by any witness that relates to the testimony of a person whom the child intends to call as a witness.

(d) A request for discovery or reciprocal discovery shall be complied with promptly and not later than 48 hours prior to the adjudication hearing, except when later compliance is made necessary by the timing of the request. If the request for discovery is made fewer than 48 hours prior to the adjudication hearing, the discovery response shall be produced in a timely manner.

(e) Any material or information furnished to a child pursuant to a discovery request shall remain in the exclusive custody of such child and shall only be used during the pendency of the case and shall be subject to such other terms and conditions as the court may provide. (Code 1981, § 15-11-541, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-542. (Effective January 1, 2014) Motion to compel discovery; limitations; sanctions.

(a) If a request for discovery is refused, application may be made to the court for a written order granting discovery.

(b) Motions to compel discovery shall certify that a request for discovery was made and was refused.

(c) An order granting discovery shall require reciprocal discovery.

(d) The court may deny, in whole or in part, or otherwise limit or set conditions concerning discovery upon sufficient showing by a person or entity to whom a request for discovery is made that disclosure of the information would:

(1) Jeopardize the safety of a party, witness, or confidential informant;

(2) Create a substantial threat of physical or economic harm to a witness or other person;

(3) Endanger the existence of physical evidence;

(4) Disclose privileged information; or

(5) Impede the criminal prosecution of a child who is being prosecuted as an adult or the prosecution of an adult charged with an offense arising from the same transaction or occurrence. (Code 1981, § 15-11-542, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-543. (Effective January 1, 2014) Notice of alibi defense.

(a) Upon written request by a prosecuting attorney stating the time, date, and place at which the alleged delinquent act was committed, a child shall serve upon the prosecuting attorney a written notice of his or her intention to offer a defense of alibi.

(b) A notice to offer an alibi defense shall state the specific place or places at which a child claims to have been at the time of the alleged delinquent act and the names, addresses, dates of birth, and telephone numbers of the witnesses, if known to the child, upon whom such child intends to rely to establish his or her alibi, unless previously supplied.

(c) A request for alibi evidence shall be complied with promptly and not later than 48 hours prior to the adjudication hearing, except when later compliance is made necessary by the timing of the request. If the request for alibi evidence is made fewer than 48 hours prior to the

adjudication hearing, the alibi evidence shall be produced in a timely manner.

(d) If a child withdraws his or her notice of intention to rely upon an alibi defense, the notice and intention to rely upon an alibi defense shall not be admissible; provided, however, that a prosecuting attorney may offer any other evidence regarding alibi.

(e) A prosecuting attorney shall serve upon a child a written notice stating the names, addresses, dates of birth, and telephone numbers of the witnesses, if known to the state, upon whom the state intends to rely to rebut such child's evidence of alibi, unless previously supplied. (Code 1981, § 15-11-543, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-544. (Effective January 1, 2014) Continuing duty to disclose.

If, subsequent to providing a discovery response, the existence of additional evidence is found, it shall be promptly provided to the state or child making the discovery request. (Code 1981, § 15-11-544, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-545. (Effective January 1, 2014) Court discretion to order disclosure.

Nothing contained in the provisions governing discovery procedure under this part shall prohibit the court from ordering the disclosure of any information that the court deems necessary and appropriate for proper adjudication. (Code 1981, § 15-11-545, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-546. (Effective January 1, 2014) Failure to comply with discovery request.

If at any time during the course of the proceedings it is brought to the attention of the court that a person or entity has failed to comply with a discovery request, the court may order the person or entity to permit

the discovery or inspection of evidence, grant a continuance, or upon a showing of prejudice and bad faith, prohibit the party from introducing in evidence the information not disclosed or presenting the witness not disclosed, or enter such other order as the court deems just under the circumstances. The court may specify the time, place, and manner of making the discovery, inspection, and interview and may prescribe such terms and conditions as are just. (Code 1981, § 15-11-546, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed

effective date note at the beginning of this chapter.

PART 9

TRANSFERS

15-11-560. (Effective January 1, 2014) Concurrent and original jurisdiction of superior court.

(a) Except as provided in subsection (b) of this Code section, the court shall have concurrent jurisdiction with the superior court over a child who is alleged to have committed a delinquent act which would be considered a crime if tried in a superior court and for which an adult may be punished by loss of life, imprisonment for life without possibility of parole, or confinement for life in a penal institution.

(b) The superior court shall have exclusive original jurisdiction over the trial of any child 13 to 17 years of age who is alleged to have committed any of the following offenses:

- (1) Murder;
- (2) Voluntary manslaughter;
- (3) Rape;
- (4) Aggravated sodomy;
- (5) Aggravated child molestation;
- (6) Aggravated sexual battery; or
- (7) Armed robbery if committed with a firearm.

(c) The granting of bail or pretrial release of a child charged with an offense enumerated in subsection (b) of this Code section shall be governed by the provisions of Code Section 17-6-1.

(d) At any time before indictment, the district attorney may, after investigation and for cause, decline prosecution in the superior court of a child 13 to 17 years of age alleged to have committed an offense

specified in subsection (b) of this Code section. Upon declining such prosecution in the superior court, the district attorney shall cause a petition to be filed in the appropriate juvenile court for adjudication within 72 hours if the child is in detention or 30 days if the child is not in detention. Except as provided in paragraph (8) of subsection (b) of Code Section 15-11-602, any case transferred by the district attorney to the juvenile court pursuant to this subsection shall be subject to the class A designated felony act provisions of Code Section 15-11-602, and the transfer of the case from superior court to juvenile court shall constitute notice to such child that such case is subject to the class A designated felony act provisions of Code Section 15-11-602.

(e) After indictment, the superior court may after investigation and for extraordinary cause transfer to the juvenile court any case involving a child 13 to 17 years of age alleged to have committed voluntary manslaughter, aggravated sodomy, aggravated child molestation, or aggravated sexual battery. Any such transfer shall be appealable by the State of Georgia pursuant to Code Section 5-7-1. Upon such a transfer by the superior court, jurisdiction shall vest in the juvenile court and jurisdiction of the superior court shall terminate. Except as provided in paragraph (8) of subsection (b) of Code Section 15-11-602, any case transferred by the superior court to the juvenile court pursuant to this subsection shall be subject to the class A designated felony act provisions of Code Section 15-11-602, and the transfer of the case from superior court to juvenile court shall constitute notice to such child that such case is subject to the class A designated felony act provisions of Code Section 15-11-602.

(f) The superior court may transfer any case involving a child 13 to 17 years of age alleged to have committed any offense enumerated in subsection (b) of this Code section and convicted of a lesser included offense not included in subsection (b) of this Code section to the juvenile court of the county of such child's residence for disposition. Upon such a transfer by the superior court, jurisdiction shall vest in the juvenile court and jurisdiction of the superior court shall terminate.

(g) Within 30 days of any proceeding in which a child 13 to 17 years of age is convicted of certain offenses over which the superior court has original jurisdiction as provided in subsection (b) of this Code section or adjudicated as a delinquent child on the basis of conduct which if committed by an adult would constitute such offenses, the superior court shall provide written notice to the school superintendent or his or her designee of the school in which such child is enrolled or, if the information is known, of the school in which such child plans to be enrolled at a future date. Such notice shall include the specific criminal offense that such child committed. The local school system to which such child is assigned may request further information from the court's

file. (Code 1981, § 15-11-560, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-561. (Effective January 1, 2014) Waiver of juvenile court jurisdiction and transfer to superior court.

(a) After a petition alleging delinquency has been filed but before the adjudication hearing, on its own motion or on a motion by a prosecuting attorney, the court may convene a hearing to determine whether to transfer the offense to the appropriate superior court for criminal trial if the court determines that:

(1) There is probable cause to believe that a child committed the alleged offense;

(2) Such child is not committable to an institution for the developmentally disabled or mentally ill; and

(3) The petition alleges that such child:

(A) Was at least 15 years of age at the time of the commission of the offense and committed an act which would be a felony if committed by an adult; or

(B) Was 13 or 14 years of age and either committed an act for which the punishment is loss of life or confinement for life in a penal institution or committed aggravated battery resulting in serious bodily injury to a victim.

(b) At least three days prior to the scheduled transfer hearing, written notice shall be given to a child and his or her parent, guardian, or legal custodian. The notice shall contain a statement that the purpose of the hearing is to determine whether such child is to be tried in the juvenile court or transferred for trial as an adult in superior court. A child may request and the court shall grant a continuance to prepare for the transfer hearing.

(c) After consideration of a probation report, risk assessment, and any other evidence the court deems relevant, including any evidence offered by a child, the court may determine that because of the seriousness of the offense or such child's prior record, the welfare of the community requires that criminal proceedings against such child be instituted.

(d) No child, either before or after reaching 17 years of age, shall be prosecuted in superior court for an offense committed before the child turned 17, unless the case has been transferred as provided in this part.

In addition, no child shall be subject to criminal prosecution at any time for an offense arising out of a criminal transaction for which the juvenile court retained jurisdiction in its transfer order. (Code 1981, § 15-11-561, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed

effective date note at the beginning of this chapter.

15-11-562. (Effective January 1, 2014) Transfer criteria; probation officer written report contents.

(a) The criteria which the court shall consider in determining whether to transfer an alleged delinquent child as set forth in subsection (b) of Code Section 15-11-560 to superior court includes, but shall not be limited to:

- (1) The age of such child;
- (2) The seriousness of the alleged offense, especially if personal injury resulted;
- (3) Whether the protection of the community requires transfer of jurisdiction;
- (4) Whether the alleged offense involved violence or was committed in an aggressive or premeditated manner;
- (5) The culpability of such child including such child's level of planning and participation in the alleged offense;
- (6) Whether the alleged offense is a part of a repetitive pattern of offenses which indicates that such child may be beyond rehabilitation in the juvenile justice system;
- (7) The record and history of such child, including experience with the juvenile justice system, other courts, supervision, commitments to juvenile institutions, and other placements;
- (8) The sophistication and maturity of such child as determined by consideration of his or her home and environmental situation, emotional condition, and pattern of living;
- (9) The program and facilities available to the juvenile court in considering disposition; and
- (10) Whether or not a child can benefit from the treatment or rehabilitative programs available to the juvenile court.

(b) A probation officer shall prepare a written report developing fully all available information relevant to the transfer criteria. A probation officer shall submit such report to the parties and the court as soon as

practicable but not later than 24 hours before the scheduled hearing. The child subject to transfer and the prosecuting attorney shall have the right to review such report and cross-examine the individual making such report.

(c) The court may order a transfer evaluation of a child's clinical status as it may impact the criteria in subsection (a) of this Code section. Statements made by a child in a transfer evaluation shall only be admissible into evidence in an adjudication hearing or in a criminal proceeding as provided by Code Sections 15-11-479 and 15-11-563. (Code 1981, § 15-11-562, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-563. (Effective January 1, 2014) Statements made at transfer hearing.

Statements made by a child at a transfer hearing shall not be admissible against such child over objection in a criminal proceedings if transfer is ordered except as impeachment or rebuttal evidence. (Code 1981, § 15-11-563, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-564. (Effective January 1, 2014) Appeal of transfer order.

(a) The decision of the court regarding transfer of the case shall only be an interlocutory judgment which either a child or the prosecuting attorney, or both, have the right to have reviewed by the Court of Appeals.

(b) The pendency of an interlocutory appeal shall stay criminal proceedings in superior court. A child transferred for trial as an adult in superior court shall be detained only in those places authorized for the preadjudication detention of a child as set forth in Code Section 15-11-504. (Code 1981, § 15-11-564, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-565. (Effective January 1, 2014) Places authorized for detention of child before and after transfer order.

(a) Prior to the entry of a judgment ordering a child's transfer or during the pendency of an appeal of a judgment ordering a child's transfer, such child shall be detained only in those places authorized for the preadjudication detention of a child as set forth in Code Section 15-11-504.

(b) After the entry of a judgment ordering transfer, a child shall be detained only in those places authorized for the detention of a child until such child, as set forth in Code Section 15-11-34, reaches 17 years of age. (Code 1981, § 15-11-565, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-566. (Effective January 1, 2014) Dismissal order upon transfer to superior court.

(a) If the court decides to transfer a child for trial in superior court, it shall dismiss the juvenile court petition alleging delinquency, set forth the offense or offenses which are being transferred, and make the following findings of fact in its dismissal order:

(1) That the court had jurisdiction of the cause and the parties;

(2) That the child subject to transfer was represented by an attorney; and

(3) That the hearing was held in the presence of the child subject to transfer and his or her attorney.

(b) The dismissal order shall also recount the reasons underlying the decision to transfer jurisdiction.

(c) A dismissal of the petition alleging delinquency terminates the jurisdiction of the juvenile court over such child as to those offenses which are transferred. If the petition alleging delinquency alleges multiple offenses that constitute a single criminal transaction, the court shall either retain or transfer all offenses relating to a single criminal transaction.

(d) Once juvenile court jurisdiction is terminated, the superior court shall retain jurisdiction even though, thereafter, a child pleads guilty to, or is convicted of, a lesser included offense. The plea to, or conviction of, a lesser included offense shall not revest juvenile jurisdiction over such child.

(e) A copy of the petition alleging delinquency and order of dismissal shall be sent to the district attorney of the judicial circuit in which the proceeding is taking place.

(f) If the court decides not to transfer a child for trial in superior court, it shall set a date for an adjudication hearing in juvenile court on the petition alleging delinquency. (Code 1981, § 15-11-566, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-567. (Effective January 1, 2014) Transfers to juvenile court.

(a) Except in those cases in which the superior court has exclusive original jurisdiction or juvenile court jurisdiction has been terminated and the child has been transferred to superior court, if it appears to any court in a criminal proceeding or a quasi-criminal proceeding that the accused is a child, the case shall forthwith be transferred to the juvenile court together with a copy of the indictment, special presentment, accusation, or citation and all other papers, documents, and transcripts of testimony relating to the case.

(b) The transferring court shall order that a child be taken forthwith to the juvenile court or to a place of detention designated by the court or shall release him or her to the custody of his or her parent, guardian, legal custodian, or other person legally responsible for him or her to be brought before the juvenile court at a time designated by that court. The indictment, special presentment, accusation, or citation may not serve in lieu of a petition alleging delinquency in the juvenile court except as provided in Part 14 of this article. (Code 1981, § 15-11-567, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

PART 10

ADJUDICATION

15-11-580. (Effective January 1, 2014) Admission or denial of the allegations of a petition.

(a) At the commencement of the adjudication hearing, the court shall address the alleged delinquent child, in language understandable to the

child, and determine whether such child is capable of understanding statements about his or her rights under this article.

(b) If a child is capable, the court shall inquire how he or she responds to the allegations of the delinquency petition. The child may:

(1) Deny the allegations of such petition, in which case the court shall proceed to hear evidence on such petition; or

(2) Admit the allegations of such petition, in which case the court shall further inquire to determine whether there is a factual basis for adjudication. If so, the court may then adjudge such child to have committed a delinquent act.

(c) If a child stands mute, refuses to answer, or answers evasively, the court shall enter a denial of the allegations. (Code 1981, § 15-11-580, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed

effective date note at the beginning of this chapter.

15-11-581. (Effective January 1, 2014) Standard of proof.

The state shall have the burden of proving the allegations of a delinquency petition beyond a reasonable doubt. (Code 1981, § 15-11-581, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed

effective date note at the beginning of this chapter.

15-11-582. (Effective January 1, 2014) Adjudication hearing; time limitations; findings.

(a) The court shall fix a time for the adjudication hearing. If an alleged delinquent child is in detention, the hearing shall be scheduled to be held no later than ten days after the filing of the delinquency petition. If a child is not in detention, the hearing shall be scheduled to be held no later than 60 days after the filing of such petition.

(b) Adjudication hearings shall be conducted:

(1) By the court without a jury;

(2) In accordance with Article 5 and Part 1 of Article 6 of Chapter 7 and Chapter 8 of Title 17, unless otherwise provided in this article;

(3) In accordance with the rules of evidence set forth in Title 24; and

(4) In language understandable to the child subject to the delinquency petition and participants, to the fullest extent practicable.

(c) The court shall determine if the allegations of the petition alleging delinquency are admitted or denied in accordance with the provisions of Code Section 15-11-580.

(d) After hearing all of the evidence, the court shall make and record its findings on whether the delinquent acts ascribed to a child were committed by such child. If the court finds that the allegations of delinquency have not been established, it shall dismiss the delinquency petition and order such child be released from any detention or legal custody imposed in connection with the proceedings.

(e) The court shall make a finding that a child has committed a delinquent act based on a valid admission made in open court of the allegations of the delinquency petition or on the basis of proof beyond a reasonable doubt. If the court finds that a child has committed a delinquent act, the court may proceed immediately or at a postponed hearing to make disposition of the case. (Code 1981, § 15-11-582, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

PART 11

REPORT CONTENTS; DISCLOSURE

15-11-590. (Effective January 1, 2014) Predisposition investigation and report.

(a) After an adjudication that a child has committed a delinquent act, the court may direct that a written predisposition investigation report be prepared by the probation officer or other person designated by the court.

(b) A predisposition investigation report shall contain such information about the characteristics, family, environment, and the circumstances affecting the child who is the subject of the report as the court determines may be helpful in its determination of the need for treatment or rehabilitation and a proper disposition of the case, including but not limited to:

(1) A summary of the facts of the conduct of such child that led to the adjudication;

(2) The sophistication and maturity of such child;

(3) A summary of such child's home environment, family relationships, and background;

(4) A summary of such child's prior contacts with the juvenile court and law enforcement agencies, including the disposition following each contact and the reasons therefor;

(5) A summary of such child's educational status, including, but not limited to, his or her strengths, abilities, and special educational needs. The report shall identify appropriate educational and vocational goals for such child. Examples of appropriate goals include:

(A) Attainment of a high school diploma or its equivalent;

(B) Successful completion of literacy courses;

(C) Successful completion of vocational courses;

(D) Successful attendance and completion of such child's current grade if enrolled in school; or

(E) Enrollment in an apprenticeship or a similar program;

(6) A summary of the results and recommendations of any of such child's significant physical and mental examinations;

(7) The seriousness of the offense to the community;

(8) The nature of the offense; and

(9) Whether the offense was against persons or against property.

(c) If the court has ordered a child's physical or mental examination to be conducted, the report shall include a copy of the results of the examination.

(d) If the court has ordered a risk assessment for a child, that assessment shall be included in the predisposition investigation report.

(e) All information shall be presented in a concise and factual manner. The report shall indicate the sources of information in the report.

(f) The original report and any other material to be disclosed shall be furnished to the court, and copies shall be furnished to the attorney for the child who is the subject of such report and to the prosecuting attorney at least five days prior to the disposition hearing. (Code 1981, § 15-11-590, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed

effective date note at the beginning of this chapter.

PART 12

DISPOSITION

15-11-600. (Effective January 1, 2014) Disposition hearing; time limitations; findings; evidence.

(a) After a finding that a child has committed a delinquent act, the court shall hear evidence on whether such child is in need of treatment, rehabilitation, or supervision and shall make and file its findings.

(b) The court may proceed immediately to the disposition hearing after the adjudication hearing or conduct the disposition hearing within 30 days of the adjudication hearing. The disposition hearing may occur later than 30 days after the adjudication hearing only if the court makes and files written findings of fact explaining the need for delay.

(c) In the absence of evidence to the contrary, evidence sufficient to warrant a finding that felony acts have been committed shall also be sufficient to sustain a finding that the child is in need of treatment or rehabilitation.

(d) If the court finds that a child who committed a delinquent act is not in need of treatment, rehabilitation, or supervision, it shall dismiss the proceeding and discharge such child from any detention or other restriction previously ordered.

(e) If the court finds that a child who committed a delinquent act is in need of supervision but not of treatment or rehabilitation, it shall find that such child is a child in need of services and enter any disposition authorized by Code Section 15-11-442.

(f) The court may consider any evidence, including hearsay evidence, that the court finds to be relevant, reliable, and necessary to determine the needs of a child who committed a delinquent act and the most appropriate disposition.

(g)(1) Prior to the disposition hearing, and upon request, the parties and their attorneys shall be afforded an opportunity to examine any written reports received by the court.

(2) Portions of written reports not relied on by the court in reaching its decision which if revealed would be prejudicial to the interests of any party to the proceeding, or reveal confidential sources, may be withheld in the court's discretion.

(3) Parties and their attorneys shall be given the opportunity to controvert written reports received by the court and to cross-examine individuals making such reports.

(h) In scheduling investigations and hearings, the court shall give priority to proceedings in which a child is in detention or has otherwise

been removed from his or her home. (Code 1981, § 15-11-600, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-601. (Effective January 1, 2014) Disposition of delinquent act.

(a) At the conclusion of the disposition hearing, if a child who committed a delinquent act is determined to be in need of treatment or rehabilitation, then after considering the results of such child's risk assessment if the court is contemplating placing such child in restrictive custody, the court shall enter the least restrictive disposition order appropriate in view of the seriousness of the delinquent act, such child's culpability as indicated by the circumstances of the particular case, the age of such child, such child's prior record, and such child's strengths and needs. The court may make any of the following orders of disposition, or combination of them, best suited to such child's treatment, rehabilitation, and welfare:

(1) Any order authorized for the disposition of a dependent child other than placement in the temporary custody of DFCS unless such child is also adjudicated as a dependent child;

(2) An order requiring such child and his or her parent, guardian, or legal custodian to participate in counseling or in counsel and advice. Such counseling and counsel and advice may be provided by the court, court personnel, probation officers, professional counselors or social workers, psychologists, physicians, physician assistants, qualified volunteers, or appropriate public, private, or volunteer agencies and shall be designed to assist in deterring future delinquent acts or other conduct or conditions which would be harmful to such child or society;

(3) An order placing such child on probation under conditions and limitations the court prescribes and which may include the probation management program. The court may place such child on probation under the supervision of:

(A) A probation officer of the court or the court of another state;

(B) Any public agency authorized by law to receive and provide care for such child; or

(C) Any community rehabilitation center if its chief executive officer has acknowledged in writing its willingness to accept the responsibility for the supervision of such child;

(4) An order placing a child on unsupervised probation under conditions and limitations the court prescribes;

(5) In any case in which such child who has not achieved a high school diploma or the equivalent is placed on probation, the court shall consider and may order as a condition of probation that he or she pursue a course of study designed to lead to achieving a high school diploma or the equivalent;

(6) An order requiring that such child perform community service in a manner prescribed by the court and under the supervision of an individual designated by the court;

(7) An order requiring that such child make restitution. In ordering a child to make restitution, the court shall follow the procedure set forth in Article 1 of Chapter 14 of Title 17. Such order may remain in force and effect simultaneously with another order of the court, including but not limited to an order of commitment to DJJ. However, no order of restitution shall be enforced while such child is at a secure residential facility or nonsecure residential facility unless the commissioner of juvenile justice certifies that a restitution program is available at such facility. Payment of funds shall be made by such child or his or her family or employer directly to the clerk of the juvenile court entering the order or to another employee of such court designated by the judge, and that court shall disburse such funds in the manner authorized in the order. While an order requiring restitution is in effect, the court may transfer enforcement of its order to:

(A) DJJ;

(B) The juvenile court of the county of such child's residence and its probation staff, if he or she changes his or her place of residence; or

(C) The superior court once such child reaches 18 years of age as set forth in Code Section 17-14-5 if he or she thereafter comes under the jurisdiction of such court, and the court shall transfer enforcement of its order to superior court if the terms of such order are not completed when such child reaches 21 years of age;

(8) An order requiring such child remit to the general fund of the county a sum not to exceed the maximum fine applicable to an adult for commission of any of the following offenses:

(A) Any felony in the commission of which a motor vehicle is used;

(B) Driving under the influence of alcohol or drugs;

(C) Driving without proof of minimum required motor vehicle insurance;

- (D) Fraudulent or fictitious use of a driver's license;
- (E) Hit and run or leaving the scene of an accident;
- (F) Homicide by vehicle;
- (G) Manslaughter resulting from the operation of a motor vehicle;
- (H) Possession of controlled substances or marijuana;
- (I) Racing on highways or streets;
- (J) Using a motor vehicle in fleeing or attempting to elude an officer; or
- (K) Any violation of the provisions contained in Title 40 which is properly adjudicated as a delinquent act;

(9) An order suspending such child's driver's license for a period not to exceed the date on which he or she reaches 18 years of age or, in the case of a child who does not have a driver's license, an order prohibiting the issuance of a driver's license to such child for a period not to exceed the date on which he or she reaches 18 years of age. The court shall retain the driver's license during such period of suspension and return it to such child at the end of such period. The court shall notify the Department of Driver Services of any actions taken pursuant to this paragraph;

(10) An order placing such child in an institution, camp, or other facility for delinquent children operated under the direction of the court or other local public authority only if such child was adjudicated for a delinquent act involving:

(A) An offense that would be a felony if committed by an adult; or

(B) An offense that would be a misdemeanor if committed by an adult and such child has had at least one prior adjudication for an offense that would be a felony if committed by an adult and at least three other prior adjudications for a delinquent act as defined in subparagraph (A) of paragraph (19) of Code Section 15-11-2; or

(11) With the same exceptions as set forth in subparagraphs (A) and (B) of paragraph (10) of this subsection, an order committing such child to DJJ.

(b)(1) This subsection shall apply to cases involving:

(A) An offense that would be a felony if committed by an adult; or

(B) An offense that would be a misdemeanor if committed by an adult and such child has had at least one prior adjudication for an

offense that would be a felony if committed by an adult and at least three other prior adjudications for a delinquent act as defined in subparagraph (A) of paragraph (19) of Code Section 15-11-2.

(2) In addition to any other treatment or rehabilitation, the court may order such child to serve up to a maximum of 30 days in a secure residential facility or, after a risk assessment and with the court's approval, in a treatment program provided by DJJ or the juvenile court.

(c) Any child ordered to a secure residential facility under subsection (b) of this Code section and detained after the adjudication hearing in a secure residential facility or nonsecure residential facility pending placement in a secure residential facility shall be given credit for time served in a secure residential facility or nonsecure residential facility awaiting placement.

(d) A child shall be given adequate information concerning the obligations and conditions imposed upon him or her by the disposition ordered by the court and the consequences of failure to meet such obligations and conditions. Such information shall be given in terms understandable to a child to enable such child to conform his or her conduct to the requirements of the disposition. (Code 1981, § 15-11-601, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-602. (Effective January 1, 2014) Disposition of class A or class B designated felony act.

(a) When a child is adjudicated to have committed a class A designated felony act or class B designated felony act, the order of disposition shall be made within 20 days of the conclusion of the disposition hearing. The court may make one of the following orders of disposition best suited to provide for the rehabilitation of such child and the protection of the community:

(1) Any order authorized by Code Section 15-11-601, if the court finds that placement in restrictive custody is not required; or

(2) An order placing such child in restrictive custody.

(b) Every order shall include a finding, based on a preponderance of the evidence, of whether such child requires placement in restrictive custody. If placement in restrictive custody is ordered for a child classified as low risk, the court shall make a specific written finding as to why placement in restrictive custody is necessary. In determining whether placement in restrictive custody is required, the court shall

consider and make specific written findings of fact as to each of the following factors:

- (1) The age and maturity of such child;
- (2) The needs and best interests of such child;

(3) The record, background, and risk level of such child as calculated by a risk assessment, including, but not limited to, information disclosed in the probation investigation, diagnostic assessment, school records, and dependency records;

(4) The nature and circumstances of the offense, including whether any injury involved was inflicted by such child or another participant, the culpability of such child or another participant in planning and carrying out the offense, and the existence of any aggravating or mitigating factors;

- (5) The need for protection of the community;

- (6) The age and physical condition of the victim;

(7) If the act was trafficking of substances in violation of Code Section 16-13-31 or 16-13-31.1, whether the circumstances involved sale, delivery, or manufacture of the substances, and if such circumstances were not involved, the court shall dispose of the act as a class B designated felony act; and

(8) If the act was aggravated child molestation and subject to the provisions of paragraph (2) of subsection (d) of Code Section 16-6-4, the court shall adjudicate the act as a delinquent act and impose a disposition in accordance with Code Section 15-11-601.

(c) An order for a child adjudicated for a class A designated felony act placing such child in restrictive custody shall provide that:

- (1) Such child be placed in DJJ custody for an initial period of up to 60 months;

(2) Such child be confined for a period set by the order in a secure residential facility, except as provided in subsection (e) of this Code section. All time spent in a secure residential facility or nonsecure residential facility shall be counted toward the period set by the order;

(3) After a period of confinement set by the court, such child shall be placed under intensive supervision not to exceed 12 months;

(4) Such child shall not be released from intensive supervision unless by court order; and

(5) All home visits shall be carefully arranged and monitored by DJJ personnel while such child is placed in a secure residential facility or nonsecure residential facility.

(d) An order for a child adjudicated for a class B designated felony act placing such child in restrictive custody shall provide that:

(1) Such child be placed in DJJ custody for an initial period of up to 36 months; provided, however, that not more than 18 months of such custodial period shall be spent in restrictive custody;

(2) Except as provided in subsection (e) of this Code section, if such child is classified as moderate risk or high risk, he or she shall be confined for a period set by the order in a secure residential facility for half of the period of restrictive custody and the other half of the period of restrictive custody may, at the discretion of DJJ, be spent in a nonsecure residential facility. All time spent in a secure residential facility or nonsecure residential facility shall be counted toward the confinement period set by the order;

(3) Except as provided in subsection (e) of this Code section, if such child is classified as low risk, he or she be confined for a period set by the order in a nonsecure residential facility. All time spent in a secure residential facility or nonsecure residential facility subsequent to the date of the disposition hearing and prior to placement in a nonsecure residential facility shall be counted toward the confinement period set by the order;

(4) Such child be placed under intensive supervision not to exceed six months either after a period of confinement set by the court or as an initial period of supervision;

(5) Such child shall not be released from intensive supervision unless by court order; and

(6) All home visits shall be carefully arranged and monitored by DJJ personnel while a child is placed in a secure residential facility or nonsecure residential facility.

(e)(1) Any child who is ordered to be confined in restrictive custody who is diagnosed with a developmental disability and is not amenable to treatment in a secure residential facility may be transferred by DJJ to a nonsecure residential facility determined to be appropriate for such child by DJJ, provided that the court and prosecuting attorney are notified of such change of placement.

(2) Notwithstanding subsection (b) of this Code section, the court shall order placement in restrictive custody in any case where the child is found to have committed a class A designated felony act or class B designated felony act in which such child inflicted serious physical injury upon another person who is 72 years of age or older.

(f) During a child's placement order or any extension of the placement in restrictive custody:

(1) While in a secure residential facility or nonsecure residential facility, such child shall be permitted to participate in all services and programs and shall be eligible to receive special medical and treatment services, regardless of the time of confinement in such facility. A child adjudicated to have committed a class A designated felony act or class B designated felony act may be eligible to participate in programs sponsored by such facility, including community work programs and sheltered workshops under the general supervision of DJJ staff outside of such facility. In cooperation and coordination with the DJJ, such child shall be allowed to participate in state sponsored programs for evaluation and services under the Georgia Vocational Rehabilitation Agency and the Department of Behavioral Health and Developmental Disabilities;

(2)(A) A child adjudicated to have committed a class A designated felony act or class B designated felony act shall not be discharged from placement in a secure residential facility or nonsecure residential facility prior to the period of time provided in the court's order except as provided in paragraph (1) of subsection (e) of this Code section or when a motion to be discharged from placement in a secure residential facility or nonsecure residential facility is granted by the court. After a court order denying a motion to discharge a child from placement in a secure residential facility or nonsecure residential facility, a subsequent such motion shall not be filed until at least six months have elapsed. Notwithstanding Code Section 15-11-32, DJJ or any party may file a motion with the court seeking a child's release from placement in a secure residential facility or nonsecure residential facility, an order modifying the court's order requiring placement in a secure residential facility or nonsecure residential facility, or termination of an order of disposition for a child committed for a class A designated felony act or class B designated felony act.

(B) All motions filed under this paragraph shall be accompanied by a written recommendation for release, modification, or termination from a child's DJJ counselor or placement supervisor, filed in the court that committed such child to DJJ, and served on the prosecuting attorney for such jurisdiction.

(C) At least 14 days prior to the date of the hearing on the motion, the moving party shall serve a copy of the motion, by first-class mail, upon the victim of the class A designated felony act or class B designated felony act, if any, at the victim's last known address, the child's attorney, if any, the child's parents or guardian, and the law enforcement agency that investigated the class A designated felony act or class B designated felony act. In addition to the parties to the motion, the prosecuting attorney and the

victim, if any, shall have a right to be heard and to present evidence to the court relative to any motion filed pursuant to this paragraph.

(D) A court hearing a motion filed under this paragraph shall determine the disposition of a child based upon a preponderance of the evidence. In determining whether a motion for release from custody, modification of placement in a secure residential facility or nonsecure residential facility, or termination of an order of disposition should be granted or denied due to changed circumstances, the court shall be required to find whether or not such child has been rehabilitated and shall consider and make specific findings of fact as to each of the following factors:

(i) The needs and best interests of such child;

(ii) The record and background of such child, including the disciplinary history of such child during the period of placement in a secure residential facility or nonsecure residential facility and subsequent offense history;

(iii) The academic progress of such child during the period of placement in a secure residential facility or nonsecure residential facility, including, if he or she is receiving services under the federal Individuals with Disabilities Education Act or Section 504 of the federal Rehabilitation Act of 1973, a review of his or her Individualized Education Program (IEP) and such child's progress toward IEP goals;

(iv) The victim's impact statement submitted for purposes of a hearing conducted pursuant to this paragraph;

(v) The safety risk to the community if such child is released; and

(vi) Such child's acknowledgment to the court and victim, if any, of his or her conduct being the cause of harm to others; and

(3) Unless otherwise specified in the order, DJJ shall report in writing to the court not less than once every six months during the placement on the status, adjustment, and progress of such child.

(g) Notwithstanding the initial periods of placement in restrictive custody ordered by the court pursuant to subsection (c) or (d) of this Code section, the period of placement may be extended on motion by DJJ, after a disposition hearing, for two additional periods not to exceed 12 months each, provided that no placement or extension of custody may continue beyond a child's twenty-first birthday.

(h) The court shall identify the school last attended by a child adjudicated for a class A designated felony act or class B designated felony act and the school which such child intends to attend and shall

transmit a copy of the adjudication to the principals of both schools within 15 days of the adjudication. Such information shall be subject to notification, distribution, and other requirements as provided in Code Section 20-2-671. (Code 1981, § 15-11-602, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

U.S. Code. — The Individuals with Disabilities Education Act, referred to in

this Code section, is codified at 20 U.S.C. § 1400 et seq.

Section 504 of the federal Rehabilitation Act of 1973, referred to in this Code section, is codified at 29 U.S.C. § 701 et seq.

15-11-603. (Effective January 1, 2014) Disposition of child adjudged to have committed delinquent act constituting AIDS transmitting crime; HIV testing; reports.

(a) As part of any order of disposition regarding a child adjudged to have committed a delinquent act constituting an AIDS transmitting crime, the court may in its discretion and after conferring with the director of the health district, order that such child submit to an HIV test within 45 days following the adjudication of delinquency. The court shall mail DJJ a copy of the order within three days following its issuance.

(b) Within 30 days following receipt of the copy of the order, DJJ shall arrange for the HIV test for such child.

(c) Any child placed in the custody and control of DJJ shall be HIV tested in accordance with DJJ's policies and procedures.

(d) If a child is determined to be infected with HIV, that determination and the name of the child shall be deemed to be AIDS confidential information and shall only be reported to:

(1) DJJ or the Department of Corrections, as the case may be, and the Department of Public Health, which may disclose the name of such child if necessary to provide counseling and which shall provide counseling to each victim of the AIDS transmitting crime or to any parent, guardian, or legal custodian of any victim who is a minor or incompetent person if DJJ or the Department of Corrections believes the crime posed a reasonable risk of transmitting HIV to the victim. Counseling shall include providing the person with information and explanations medically appropriate for such person which may include all or part of the following: accurate information regarding AIDS and HIV; an explanation of behaviors that reduce the risk of transmitting AIDS and HIV; an explanation of the confidentiality of information relating to AIDS diagnoses and HIV tests; an explana-

tion of information regarding both social and medical implications of HIV tests; and disclosure of commonly recognized treatment or treatments for AIDS and HIV;

(2) The court which ordered the HIV test; and

(3) Those persons in charge of any facility to which such child has been confined by order of the court. In addition to any other restrictions regarding the confinement of a child, a child determined to be an HIV infected person may be confined separately from any other children in that facility other than those who have been determined to be infected with HIV if:

(A) That child is reasonably believed to be sexually active while confined;

(B) That child is reasonably believed to be sexually predatory either during or prior to detention; or

(C) The commissioner of juvenile justice reasonably determines that other circumstances or conditions exist which indicate that separate confinement would be warranted. (Code 1981, § 15-11-603, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

Cross references. — Criminal conduct by HIV infected persons, § 16-5-60.

Transmitting crimes and required reporting of adult offenders, § 17-10-15. Disclosure of AIDS confidential information, § 24-12-21. Control of HIV, T. 31, C. 17A. Use of HIV test results in granting relief from sentence, § 42-9-42.1.

15-11-604. (Effective January 1, 2014) Credit for time served.

(a) A child adjudicated to have committed a delinquent act shall be given credit for each day spent in a secure residential facility or nonsecure residential facility awaiting adjudication and for each day spent in a secure residential facility or nonsecure residential facility in connection with and resulting from a court order entered in the proceedings for which the disposition was imposed and in any institution or facility for treatment or examination of a physical or mental disability. Such credit shall be applied toward the child's disposition.

(b) Subsection (a) of this Code section shall apply to dispositions for all offenses, whether classified as violations, misdemeanors, or felonies. (Code 1981, § 15-11-604, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed

effective date note at the beginning of this chapter.

15-11-605. (Effective January 1, 2014) Probation management programs or secure probation sanctions programs; violations of probation programs.

(a) In addition to any other terms or conditions of probation provided for under this article, the court may require that children who receive a disposition of probation:

(1) Be ordered to a probation management program; or

(2) Be ordered to a secure probation sanctions program by a probation officer or hearing officer.

(b) When a child has been ordered to a probation management program or secure probation sanctions program, the court shall retain jurisdiction throughout the period of the probated sentence and may modify or revoke any part of a probated sentence as provided in Code Section 15-11-32.

(c)(1) DJJ in jurisdictions where DJJ is authorized to provide probation supervision or the county juvenile probation office in jurisdictions where probation supervision is provided directly by the county, as applicable, shall be authorized to establish rules and regulations for graduated sanctions as an alternative to judicial modifications or revocations for probationers who violate the terms and conditions of a probation management program.

(2) DJJ or the county juvenile probation office, as applicable, shall not sanction probationers for violations of conditions of probation if the court has expressed an intention in a written order that such violations be heard by the court.

(d) DJJ or the county juvenile probation office, as applicable, shall impose only those restrictions equal to or less restrictive than the maximum sanction established by the court.

(e) The secure probation sanctions program shall be established by DJJ. Exclusion of a child from a secure probation sanctions program otherwise authorized by this Code section to enter such program shall be mutually agreed upon by the Council of Juvenile Court Judges and DJJ. The secure probation sanctions program shall be available to the juvenile courts to the extent that each secure facility has capacity for such offenders within its facilities. Prior to reaching full capacity, DJJ shall inform the various juvenile courts of its capacity constraints.

(f)(1) When requesting the secure probation sanctions program, probation officers supervising a child under a probation management program shall provide an affidavit to the court specifying:

(A) The elements of such child's probation program;

(B) Such child's failures to respond to graduated sanctions in the community; and

(C) Such child's number of violations and the nature of each violation.

(2) If a probation officer fails to document the violations and specify how a child has failed to complete a probation management program, such child shall be ineligible to enter the secure probation sanctions program.

(3) A child may enter the secure probation sanctions program if ordered by the court and:

(A) The probation officer has complied with the provisions of paragraph (1) of this subsection and the criteria set by the department for entrance into such program and such child has had three or more violations of probation; or

(B) A child in a probation management program and his or her parent or guardian, or a child in such program and his or her attorney, admit to three or more violations of such program and sign a waiver accepting the sanction proposed by the probation officer.

(4) Each new violation of a condition of a probated sentence may result in a child being sentenced to the secure probation sanctions program; provided, however, that if a child is sentenced to the secure probation sanctions program and completes all program components in the seven, 14, and 30 day programs, such child shall be ineligible to attend the secure probation sanctions program for a future violation of a condition of the same probated sentence.

(g)(1) When a violation of a condition of probation occurs, a child may have an administrative hearing conducted by a hearing officer. If the hearing officer determines by a preponderance of the evidence that such child violated the conditions of probation, the probation officer shall be authorized to impose graduated sanctions. A child's failure to comply with a sanction imposed under this paragraph shall constitute another violation of probation.

(2) A hearing officer's decision shall be final unless such child files, within five days of the service of such decision, a written demand with the hearing officer who conducted the administrative hearing for review of such decision. Such demand shall not stay the sanction decision. Such hearing officer shall issue a response to such demand within five days of receiving such demand.

(3) If such hearing officer insists on the sanction, his or her decision shall be final unless the child subject to the sanction files an

appeal in the court that originally adjudicated such child. Such appeal shall be filed within ten days of the date of the decision of the hearing officer.

(4) The appeal shall first be reviewed by the court upon the record. At the court's discretion, a de novo hearing may be held on the decision. The filing of the appeal shall not stay the sanction decision.

(5) Where the court does not act on the appeal within 15 days of the date of the filing of the appeal, the sanction decision shall be affirmed by operation of law. (Code 1981, § 15-11-605, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed

effective date note at the beginning of this chapter.

15-11-606. (Effective January 1, 2014) Order of disposition not conviction of crime.

An order of disposition or adjudication shall not be a conviction of a crime and shall not impose any civil disability ordinarily resulting from a conviction nor operate to disqualify the child in any civil service application or appointment. (Code 1981, § 15-11-606, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed

effective date note at the beginning of this chapter.

15-11-607. (Effective January 1, 2014) Duration of disposition orders.

(a) Except as otherwise provided in Code Section 15-11-602, an order of disposition committing a child adjudicated for a delinquent act to DJJ shall continue in force for two years or until such child is sooner discharged by DJJ. The court which made the order may extend its duration for a period not to exceed two years subject to like discharge, if:

(1) A hearing is held upon DJJ's motion prior to the expiration of the order;

(2) Reasonable notice of the factual basis of the motion and of the hearing and an opportunity to be heard are given to such child and his or her parent, guardian, or legal custodian; and

(3) The court finds that the extension is necessary for the treatment or rehabilitation of such child.

(b) Any other order of disposition except an order of restitution as allowed by paragraph (7) or (8) of subsection (a) of Code Section 15-11-601 shall continue in force for not more than two years. An order of extension may be made if:

(1) A hearing is held prior to the expiration of the order on the court's own motion or upon motion of DJJ or the prosecuting attorney;

(2) Reasonable notice of the factual basis of the motion and of the hearing and opportunity to be heard are given to the parties affected;

(3) The court finds that the extension is necessary to accomplish the purposes of the order extended; and

(4) The extension does not exceed two years from the expiration of the prior order.

(c) The court may terminate an order of disposition or an extension of such a disposition order prior to its expiration, on its own motion or an application of a party, if it appears to the court that the purposes of the order have been accomplished.

(d) Except as otherwise provided in paragraph (7) of subsection (a) of Code Section 15-11-601 and Code Section 17-14-5, when a child reaches 21 years of age, all orders affecting him or her then in force terminate and he or she is discharged from further obligation or control. (Code 1981, § 15-11-607, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-608. (Effective January 1, 2014) Probation revocation; procedure.

(a) An order granting probation to a child adjudicated for a delinquent act may be revoked on the ground that the conditions of probation have been violated.

(b) Any violation of a condition of probation may be reported to the prosecuting attorney who may file a motion in the court for revocation of probation. A motion for revocation of probation shall contain specific factual allegations constituting each violation of a condition of probation.

(c) The motion for revocation of probation shall be served upon the child serving the probated sentence, his or her attorney, and his or her parent, guardian, or legal custodian in accordance with the provisions of Code Section 15-11-531.

(d) If a child serving a probated sentence is taken into custody because of an alleged violation of probation, the provisions governing the detention of a child shall apply.

(e) A revocation hearing shall be scheduled to be held no later than 30 days after the filing of such motion or, if a child has been detained as a result of the filing of such motion for revocation, not later than ten days after the filing of the motion.

(f) If the court finds, beyond a reasonable doubt, that a child violated the terms and conditions of probation, the court may:

(1) Extend probation;

(2) Impose additional conditions of probation; or

(3) Make any disposition that could have been made at the time probation was imposed.

(g) In the case of a class A designated felony act or class B designated felony act, if the court finds that a child violated the terms and conditions of probation, the court shall reconsider and make specific findings of fact as to each of the factors in subsection (b) of Code Section 15-11-602 to determine whether placement in restrictive custody.

(h) In the case of a class A designated felony act or class B designated felony act, if the court finds, beyond a reasonable doubt, that a child violated the terms and conditions of probation and revokes the order granting probation, the child shall be given credit for time served on probation and time served in preadjudication custody. (Code 1981, § 15-11-608, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

PART 13

PERMANENCY PLANNING FOR DELINQUENT AND DEPENDENT CHILDREN

15-11-620. (Effective January 1, 2014) Calculating time when child is delinquent and dependent.

(a) When a child is alleged to have committed a delinquent act and be a dependent child, the date such child is considered to have entered foster care shall be the date of the first judicial finding that such child has been subjected to child abuse or neglect or the date that is 60 days after the date on which such child is removed from his or her home, whichever is earlier.

(b) If a child alleged or adjudicated to have committed a delinquent act is detained in a facility operated primarily for the detention of

delinquent children but is later placed in foster care within 60 days of such child's removal from the home, then the date of entry into foster care shall be 60 days after the date of removal.

(c) If a child is detained in a facility operated primarily for the detention of delinquent children pending placement in foster care and remains detained for more than 60 days, then the date of entry into foster care shall be the date such child is placed in foster care. (Code 1981, § 15-11-620, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-621. (Effective January 1, 2014) Periodic review hearings for delinquent children in foster care.

The periodic review hearing requirements under Code Sections 15-11-216, 15-11-217, and 15-11-218 shall apply to proceedings involving a child alleged or adjudicated to have committed a delinquent act and placed in foster care. (Code 1981, § 15-11-621, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-622. (Effective January 1, 2014) Permanency planning requirements; reasons for failure to terminate parental rights.

(a) The permanency plan requirements under Code Sections 15-11-230, 15-11-231, and 15-11-232 shall apply to proceedings involving a child alleged or adjudicated to have committed a delinquent act and placed in foster care.

(b) In addition to the compelling reasons set forth in Code Section 15-11-233, a compelling reason for determining that filing a termination of parental rights petition is not in the best interests of a child alleged or adjudicated to have committed a delinquent act may include, but not be limited to:

(1) A child's developmental needs require continued out-of-home placement for an additional number of months, and his or her parent, guardian, or legal custodian has cooperated with referrals, visitation, and family conferences, as well as therapy;

(2) A child is uncooperative with services or referrals; and

(3) The length of the delinquency disposition affects the permanency plan. (Code 1981, § 15-11-622, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

PART 14

TRAFFIC OFFENSES

15-11-630. (Effective January 1, 2014) Juvenile traffic offenses; summons; hearings; penalties; transfers; providing information to Department of Driver Services.

(a) A juvenile traffic offense consists of a violation by a child of:

(1) A law or local ordinance governing the operation of a moving motor vehicle upon the streets or highways of this state or upon the waterways within or adjoining this state; or

(2) Any other motor vehicle traffic law or local ordinance if a child is taken into custody and detained for its violation or is transferred to the juvenile court by the court hearing the charge.

(b) The following offenses shall be acts of delinquency and shall not be handled as juvenile traffic offenses: aggressive driving, reckless driving, a four-point speeding offense, homicide by vehicle, manslaughter resulting from the operation of a vehicle, any felony in the commission of which a motor vehicle is used, racing on highways and streets, using a motor vehicle in fleeing or attempting to elude an officer, fraudulent or fictitious use of a driver's license, hit and run or leaving the scene of an accident, driving under the influence of alcohol or drugs, and any offense committed by an unlicensed driver under 16 years of age.

(c) A juvenile traffic offense shall not be an act of delinquency unless the case is transferred to the delinquency calendar.

(d) The summons, notice to appear, or other designation of a citation accusing a child of committing a juvenile traffic offense constitutes the commencement of the proceedings in the court of the county in which the alleged violation occurred and serves in place of a summons and petition under this article. These cases shall be filed and heard separately from other proceedings of the court. If a child is taken into custody on the charge, Code Sections 15-11-503 and 15-11-505 shall apply. If a child is, or after commencement of the proceedings becomes, a resident of another county of this state, the court in the county where

the alleged traffic offense occurred may retain jurisdiction over the entire case.

(e) The court shall fix a time for a hearing and shall give reasonable notice thereof to the child accused of committing a juvenile traffic offense and, if his or her address is known, to his or her parent, guardian, or legal custodian. If the accusation made in the summons, notice to appear, or other designation of a citation is denied, a hearing shall be held at which the parties shall have the right to subpoena witnesses, present evidence, cross-examine witnesses, and appear with their attorney. The hearing shall be open to the public.

(f) If the court finds on the admission of a child or upon the evidence that a child committed the offense charged, it may make one or more of the following orders:

(1) Reprimand, counsel, or warn such child and his or her parent, guardian, or legal custodian; provided, however, that this disposition order shall not be available for any act of delinquency;

(2) As a matter of supervised or unsupervised probation, order the Department of Driver Services to suspend such child's privilege to drive under stated conditions and limitations for a period not to exceed 12 months;

(3) Require such child to attend a traffic school approved by the Department of Driver Services or a substance abuse clinic or program approved by either DBHDD or the Council of Juvenile Court Judges for a reasonable period of time;

(4) Assess a fine and order such child to remit to the general fund of the county a sum not exceeding the maximum applicable to an adult for a like offense. The fine shall be subject to all additions and penalties as specified under this title and Title 47;

(5) Require such child to participate in a program of community service as specified by the court;

(6) Impose any sanction authorized by Code Section 15-11-442 or 15-11-601; or

(7) Place such child on probation subject to the conditions and limitations imposed by Title 40 governing probation granted to adults for like offenses, provided that such probation shall be supervised by the court or shall be unsupervised probation.

(g) In lieu of the orders provided by subsection (f) of this Code section, if the evidence warrants, the court may transfer the case to the delinquency calendar of the court and direct the filing and service of a summons and delinquency petition.

(h) Upon finding that a child has committed a juvenile traffic offense or an act of delinquency which would be a violation of Title 40 if committed by an adult, the court shall forward, within ten days, a report of the final adjudication and disposition of the charge to the Department of Driver Services; provided, however, that this procedure shall not be applicable to those cases which have been dismissed or in which a child and his or her parent, guardian, or legal custodian have been reprimanded, counseled, or warned by the court. The Department of Driver Services shall record the adjudication and disposition of the offense on such child's permanent record, and such adjudication and disposition shall be deemed a conviction for the purpose of suspending or revoking such child's driver's license. Such record shall also be available to law enforcement agencies and courts as are the permanent traffic records of adults. (Code 1981, § 15-11-630, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

ARTICLE 7

COMPETENCY IN DELINQUENCY CASES

15-11-650. (Effective January 1, 2014) Purpose of article.

The purpose of this article is:

- (1) To set forth procedures for a determination of whether a child is incompetent to proceed; and
- (2) To provide a mechanism for the development and implementation of competency remediation services, when appropriate, including treatment, habilitation, support, or supervision services. (Code 1981, § 15-11-650, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-651. (Effective January 1, 2014) Definitions.

As used in this article, the term:

- (1) "Competency remediation services" means outpatient interventions directed only at facilitating the attainment of competence to proceed for a child adjudicated to be incompetent to proceed. Such term may include mental health treatment to reduce interfering symptoms, specialized psychoeducational programming, or a combination of these interventions.

(2) "Comprehensive services plan" shall have the same meaning as set forth in Code Section 15-11-381.

(3) "Incompetent to proceed" means lacking sufficient present ability to understand the nature and object of the proceedings, to comprehend his or her own situation in relation to the proceedings, and to assist his or her attorney in the preparation and presentation of his or her case in all adjudication, disposition, or transfer hearings. Such term shall include consideration of a child's age or immaturity.

(4) "Mental competency proceeding" means a hearing conducted to determine whether a child is incompetent to proceed in adjudication, a disposition hearing, or a transfer proceeding.

(5) "Plan manager" shall have the same meaning as set forth in Code Section 15-11-381.

(6) "Treatment facility" means a facility that receives patients for psychiatric treatment as provided in Code Sections 37-3-80 through 37-3-84 but shall not include a secure residential facility. (Code 1981, § 15-11-651, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-652. (Effective January 1, 2014) Stay of proceedings regarding child who may not be mentally competent to stand trial; appointment of attorney; tolling of time periods.

(a) If at any time after the filing of a petition alleging delinquency or that a child is a child in need of services the court has reason to believe that the child named in the petition may be incompetent to proceed, the court on its own motion or on the motion of the attorney representing such child, any guardian ad litem for such child, such child's parent, guardian, or legal custodian, or the prosecuting attorney shall stay all proceedings relating to such petition and, unless the court accepts a stipulation by the parties as to such child's incompetency, shall order a competency evaluation of and report on such child's mental condition.

(b) When a delinquency petition is filed alleging a child under the age of 13 has committed a serious violent felony, as defined in Code Section 17-10-6.1, the court shall stay all delinquency proceedings relating to such petition and, unless the court accepts a stipulation by the parties as to such child's incompetency, shall order a competency evaluation and report concerning such child's mental condition.

(c) Any motion, notice of hearing, order, or other pleading relating to a child's incompetency to proceed shall be served upon him or her, his or

her attorney, his or her guardian ad litem, if any, his or her parent, guardian, or legal custodian, and the prosecuting attorney.

(d) Prior to the administration of any evaluation, the court shall appoint an attorney to represent a child if he or she is not yet represented by an attorney.

(e) All time limits set forth in Articles 5 and 6 of this chapter for adjudication and disposition of a delinquency or a child in need of services proceeding shall be tolled during the evaluation, adjudication, and disposition phases of the mental competency proceeding and during provision of competency remediation services. (Code 1981, § 15-11-652, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed

effective date note at the beginning of this chapter.

15-11-653. (Effective January 1, 2014) Evaluation of a child's mental condition; procedures; written reports; additional evaluations.

(a) The court ordered evaluation and report shall be conducted by an examiner who shall consider whether a child is incompetent to proceed. The court shall provide the examiner with any law enforcement or court records necessary for understanding the petition alleging delinquency. The attorney for the child being examined and the prosecuting attorney shall provide the examiner with any records from any other available sources that are deemed necessary for the competency evaluation.

(b) The competency evaluation shall be performed on an outpatient basis; provided, however, that if a child is in an out-of-home placement, the evaluation shall be performed at such child's location.

(c) The examiner who conducts the evaluation shall submit a written report to the court within 30 days of receipt of the court order for evaluation. The court may, in its discretion, grant the examiner an extension in filing such report. The report shall contain the following:

(1) The specific reason for the evaluation, as provided by the court or the party requesting the evaluation;

(2) The evaluation procedures used, including any psychometric instruments administered, any records reviewed, and the identity of any persons interviewed;

(3) Any available pertinent background information;

(4) The results of a mental status exam, including the diagnosis if any and description of any psychiatric symptoms, cognitive deficiency, or both;

(5) A description of a child's abilities and deficits in the following mental competency functions:

(A) The ability to understand and appreciate the nature and object of the proceedings;

(B) The ability to comprehend his or her situation in relation to the proceedings; and

(C) The ability to assist his or her attorney in the preparation and presentation of his or her case;

(6) An opinion regarding the potential significance of a child's mental competency, strengths, and deficits;

(7) An opinion regarding whether or not a child should be considered incompetent to proceed; and

(8) A specific statement explaining the reasoning supporting the examiner's final determination.

(d) If, in the opinion of the examiner, a child should be considered incompetent to proceed, the report shall also include the following:

(1) An opinion on whether the primary cause of incompetency to proceed is immaturity, mental illness, developmental disability, or a combination of mental illness and developmental disability;

(2) An opinion on whether there is a substantial probability that the examined child will attain the mental competency necessary to participate in adjudication, a disposition hearing, or a transfer hearing in the foreseeable future;

(3) If the examiner believes that the examined child will attain mental competency, recommendations for the general level and type of competency remediation services necessary for significant deficits;

(4) A recommendation on the appropriate treatment or services;

(5) When appropriate, recommendations for modifications of court procedure which may help compensate for mental competency weaknesses; and

(6) Any relevant medication history.

(e) If the examiner determines that the examined child is currently competent because of ongoing treatment with medication or other services, the report shall address the necessity of continuing such treatment and shall include a description of any limitation such treatment may have on competency.

(f) Copies of the written evaluation report shall be provided by the court to the attorney representing the examined child, the prosecuting

attorney or a member of his or her staff, and any guardian ad litem for the examined child no later than five days after receipt of the report by the court.

(g) Upon a showing of good cause by any party or upon the court's own motion, the court may order additional evaluations by other licensed psychologists or psychiatrists. In no event shall more than one evaluation be conducted by an examiner employed by DBHDD. (Code 1981, § 15-11-653, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed

effective date note at the beginning of this chapter.

15-11-654. (Effective January 1, 2014) Transfer of proceedings.

(a) If at any time following a finding that a child is incompetent to proceed the court determines that such child is a resident of a county of this state other than the county in which the court sits, the court may transfer the proceeding to the county of such child's residence.

(b) When any case is transferred, certified copies of all legal, social history, health, or mental health records pertaining to the case on file with the clerk of the court shall accompany the transfer. Compliance with this subsection shall terminate jurisdiction in the transferring court and initiate jurisdiction in the receiving court.

(c) If a court determines that such child's competency is remediated, jurisdiction of the case may be returned to the transferring court for the adjudication hearing and any subsequent proceedings. (Code 1981, § 15-11-654, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed

effective date note at the beginning of this chapter.

15-11-655. (Effective January 1, 2014) Mental competency hearing; burden of proof; notice; rights during hearing; procedure; findings.

(a) A hearing to determine if a child is incompetent to proceed shall be conducted within 60 days after the initial court order for evaluation. The hearing may be continued by the court for good cause shown.

(b) Written notice shall be given to all parties and the victim at least ten days prior to such hearing.

(c) The burden of proving that a child is incompetent to proceed shall be on such child. The standard of proof necessary for proving mental competency shall be a preponderance of the evidence.

(d) At the hearing to determine incompetency to proceed, a child's attorney and the prosecuting attorney shall have the right to:

- (1) Present evidence;
- (2) Call and examine witnesses;
- (3) Cross-examine witnesses; and
- (4) Present arguments.

(e) The examiner appointed by the court shall be considered the court's witness and shall be subject to cross-examination by both a child's attorney and the prosecuting attorney.

(f) The court's findings of fact shall be based on any evaluations of a child's mental condition conducted by licensed psychologists or psychiatrists appointed by the court, any evaluations of a child's mental condition conducted by independent licensed psychologists or psychiatrists hired by the parties, and any additional evidence presented.

(g) If the court finds that a child is not incompetent to proceed, the proceedings which have been suspended shall be resumed. The time limits under Article 5 or 6 of this chapter for adjudication and disposition of the petition shall begin to run from the date of the order finding such child mentally competent.

(h) Copies of the court's findings shall be given to the parties within ten days following the issuance of such findings. (Code 1981, § 15-11-655, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-656. (Effective January 1, 2014) Disposition of incompetent child; competency remediation.

(a) If the court finds that a child is incompetent to proceed but such child's incompetence may be remediated, if such child is alleged:

(1) To be a child in need of services, the court shall either dismiss the petition without prejudice or order competency remediation services for such child; or

(2) To have committed a delinquent act, the court may order competency remediation services for such child.

(b) In determining whether to order competency remediation services, the court shall consider:

(1) Whether there is probable cause to believe the allegations in the petition are true;

(2) The nature of the incompetency;

(3) An incompetent child's age; and

(4) The nature of the act alleged to have been committed by the incompetent child, in particular whether the act is a serious violent felony as such term is defined in Code Section 17-10-6.1.

(c) If a child is determined to be incompetent to proceed, the court has ordered that competency remediation services should be provided, and:

(1) Such child is alleged to have committed an act that would be a felony if committed by an adult, the court may retain jurisdiction of such child for up to two years after the date of the order of incompetency, with review hearings at least every six months to redetermine competency or proceed as provided in subsection (f) of this Code section; or

(2) A child is alleged to have committed an act that would be a misdemeanor if committed by an adult, the court may retain jurisdiction of a child for up to 120 days after the date of the order of incompetency or proceed as provided in subsection (f) of this Code section.

(d) All court orders determining incompetency shall include specific written findings by the court as to the nature of the incompetency and the mandated outpatient competency remediation services. If such child is in an out-of-home placement, the court shall specify the type of competency remediation services to be performed at such child's location. A child may be placed in a secure treatment facility or program, not to include DJJ facilities, if the court makes a finding by clear and convincing evidence that:

(1) A child is mentally ill or developmentally disabled and meets the requirements for civil commitment pursuant to Chapters 3 and 4 of Title 37; and

(2) All available less restrictive alternatives, including treatment in community residential facilities or community settings which would offer an opportunity for improvement of a child's condition, are inappropriate.

(e) A child who is incompetent to proceed shall not be subject to transfer to superior court, adjudication, disposition, or modification of disposition so long as the mental incompetency exists.

(f) If the court determines that an alleged delinquent child is incompetent to proceed, the court may dismiss the petition without prejudice.

(g) If a child is detained in a secure residential facility or nonsecure residential facility and the court determines that such child is incompetent to proceed, within five days of such determination the court shall issue an order to immediately release such child to the appropriate parent, guardian, or legal custodian. (Code 1981, § 15-11-656, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-657. (Effective January 1, 2014) Restoration to competency; remediation orders and reports.

(a) All competency remediation service orders issued by the court shall contain:

(1) The name of the competency remediation service program provider and the location of the program;

(2) A statement of the arrangements for a child's transportation to the program site;

(3) The length of the competency remediation service program;

(4) A statement of the arrangements for a child's transportation after the program ends; and

(5) A direction concerning the frequency of reports required by the court.

(b) DBHDD or a licensed psychologist or psychiatrist shall file a written report with the court:

(1) Not later than six months after the date the court orders that competency remediation be attempted but prior to the first review hearing;

(2) Every six months after the first review hearing if a child remains incompetent to proceed and under an order for remediation;

(3) At any time DBHDD or a licensed psychologist or psychiatrist opines a child has attained competency; or

(4) At shorter intervals designated by the court in its competency remediation order.

(c) DBHDD or the licensed psychologist or psychiatrist written report shall include, but not be limited to:

(1) Whether a child's competency can be remediated or whether a child is likely to remain incompetent to proceed for the foreseeable future;

(2) Whether additional time is needed to remediate a child's competency; and

(3) If a child has attained competency, the effect, if any, of any limitations that are imposed by any medication or other treatment used in the effort to remediate competency. (Code 1981, § 15-11-657, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed

effective date note at the beginning of this chapter.

15-11-658. (Effective January 1, 2014) Disposition of a child found unrestorably incompetent to proceed.

(a) If the court initially finds that a child is unrestorably incompetent to proceed, the court shall dismiss the petition, appoint a plan manager, and order that procedures for a comprehensive services plan be initiated under Article 5 of this chapter. When appropriate, the court may:

(1) Order that a child be referred for civil commitment pursuant to Chapters 3 and 4 of Title 37. Such proceedings shall be instituted not less than 60 days prior to the dismissal of the delinquency or a child in need of services petition; or

(2) Order that referral be made for appropriate adult services if a child has reached the age of 18 years at the time of the competency determination.

(b) If at any time after a child is ordered to undergo competency remediation services DBHDD or a licensed psychologist or psychiatrist opines that a child is likely to remain incompetent to proceed for the foreseeable future, DBHDD or the licensed psychologist or psychiatrist shall submit a report to the court so stating.

(c) Upon receipt of the report specified in subsection (b) of this Code section, the court shall make a competency determination and shall dismiss the delinquency petition, appoint a plan manager, and order that procedures for a comprehensive services plan be initiated under Article 5 of this chapter. When appropriate, the court may:

(1) Order that a child be referred for civil commitment pursuant to Chapters 3 and 4 of Title 37. Such proceedings shall be instituted not less than 60 days prior to the dismissal of the delinquency or child in need of services petition; or

(2) Order that referral be made for appropriate adult services if a child has reached the age of 18 years at the time of the competency determination. (Code 1981, § 15-11-658, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed

effective date note at the beginning of this chapter.

15-11-659. (Effective January 1, 2014) Court's duty when child found unrestorably incompetent to proceed.

If at any time after a child is adjudicated to be incompetent to proceed due to age, immaturity, or for any reason other than mental illness or developmental disability and is ordered to undergo competency remediation services and DBHDD determines that such child is likely to remain incompetent to proceed for the foreseeable future, DBHDD shall submit a report and its conclusions to the court. Upon receipt of such report, the court shall:

- (1) Make a competency determination;
- (2) Order that the applicable petition be dismissed; and
- (3) Order that a plan manager be appointed and that the procedures for a comprehensive services plan be initiated under Article 5 of this chapter. (Code 1981, § 15-11-659, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed

effective date note at the beginning of this chapter.

15-11-660. (Effective January 1, 2014) Review hearings.

(a) The court shall hold a hearing to review a child's progress toward competency:

- (1) At least every six months;
- (2) At any time, on its own motion or on the motion of the prosecuting attorney, a child's attorney, or a child's guardian ad litem, if any;
- (3) On receipt of a report submitted by DBHDD; or
- (4) Not less than three months before a child's eighteenth birthday.

(b) If at a review hearing the court finds that a child has attained competency, the suspended proceedings shall be resumed and the time limits applicable under Article 5 or 6 of this chapter shall begin to run from the date of the order finding the child mentally competent.

(c) If at a review hearing held following the court's receipt of a DBHDD or licensed psychologist or psychiatrist's report the court finds that a child's incompetency has not been remediated but that such child has made substantial progress toward remediation, the court may

extend the competency remediation program period for an additional 60 days if the court determines by clear and convincing evidence that further participation is likely to lead to remediation of competency.

(d) If at a review hearing the court finds that a child's competency is not remediated and is not likely to be remediated within the time left before such child's eighteenth birthday, the court shall dismiss the petition with prejudice if such child is alleged to be a child in need of services or to have committed a delinquent act which would be a misdemeanor if committed by an adult.

(e) At each review hearing, the court shall also consider whether the petition alleging delinquency or that a child is a child in need of services should be withdrawn, maintained, or dismissed, without prejudice, upon grounds other than a child's being incompetent to proceed. If the court dismisses the petition, the prosecuting attorney may seek to refile a petition alleging a delinquent act which would be a felony if committed by an adult if a child is later determined to be mentally competent. The prosecuting attorney may also seek transfer to superior court if a child is later determined to be mentally competent and otherwise meets all the requirements for transfer under Article 6 of this chapter. (Code 1981, § 15-11-660, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed

effective date note at the beginning of this chapter.

ARTICLE 8

PARENTAL NOTIFICATION ACT

15-11-680. (Effective January 1, 2014) Short title.

This article shall be known and may be cited as the "Parental Notification Act." (Code 1981, § 15-11-680, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

Cross references. — Abortion, T. 16, C. 12, A. 5. Criminal abortion, § 16-12-140. Abortions not to be per-

formed by physician assistants, § 43-34-110. Parental Notification Act, Rules of the Supreme Court of Georgia, Rules 62 — 66. Parental Notification Act, Rules of the Court of Appeals of the State of Georgia, Rule 45. Parental notification of abortion, Uniform Rules for the Juvenile Courts of Georgia, Rules 23.1 — 23.9.

15-11-681. (Effective January 1, 2014) Definitions.

As used in this article, the term:

(1) "Abortion" means the use or prescription of any instrument, medicine, drug, or any other substance or device with the intent to terminate the pregnancy of a female known to be pregnant. The term "abortion" shall not include the use or prescription of any instrument, medicine, drug, or any other substance or device employed solely to increase the probability of a live birth, to preserve the life or health of the child after live birth, or to remove a dead unborn child who died as a result of a spontaneous abortion. The term "abortion" also shall not include the prescription or use of contraceptives.

(2) "Proper identification" means any document issued by a governmental agency containing a description of the person, the person's photograph, or both, including but not limited to a driver's license, an identification card authorized under Code Sections 40-5-100 through 40-5-104 or similar identification card issued by another state, a military identification card, a passport, or an appropriate work authorization issued by the United States Immigration and Customs Enforcement Division of the Department of Homeland Security.

(3) "Unemancipated minor" means any person under the age of 18 who is not or has not been married or who is under the care, custody, and control of such person's parent or parents, guardian, or the juvenile court of competent jurisdiction. (Code 1981, § 15-11-681, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-682. (Effective January 1, 2014) Parental notification of abortion; hearing; venue.

(a) No physician or other person shall perform an abortion upon an unemancipated minor unless:

(1)(A) The unemancipated minor seeking an abortion is accompanied by his or her parent or guardian who shall show proper identification and state that he or she is the lawful parent or guardian of the unemancipated minor and that he or she has been notified that an abortion is to be performed on the unemancipated minor;

(B) The physician or the physician's qualified agent gives at least 24 hours' actual notice, in person or by telephone, to the parent or guardian of the unemancipated minor of the pending abortion and the name and address of the place where the abortion is to be performed; provided, however, that, if the person so notified indicates that he or she has been previously informed that the unemancipated minor was seeking an abortion or if the person so

notified has not been previously informed and he or she clearly expresses that he or she does not wish to consult with the unemancipated minor, then in either event the abortion may proceed in accordance with Chapter 9A of Title 31; or

(C) The physician or a physician's qualified agent gives written notice of the pending abortion and the address of the place where the abortion is to be performed, sent by registered or certified mail or statutory overnight delivery, return receipt requested with delivery confirmation, addressed to a parent or guardian of the unemancipated minor at the usual place of abode of the parent or guardian. Unless proof of delivery is otherwise sooner established, such notice shall be deemed delivered 48 hours after mailing. The time of mailing shall be recorded by the physician or agent in the unemancipated minor's file. The abortion may be performed 24 hours after the delivery of the notice; provided, however, that, if the person so notified certifies in writing that he or she has been previously informed that the unemancipated minor was seeking an abortion or if the person so notified has not been previously informed and he or she certifies in writing that he or she does not wish to consult with the unemancipated minor, then in either event the abortion may proceed in accordance with Chapter 9A of Title 31; and

(2) The unemancipated minor signs a consent form stating that she consents, freely and without coercion, to the abortion.

(b) If the unemancipated minor or the physician or a physician's qualified agent, as the case may be, elects not to comply with any one of the requirements of subparagraph (a)(1)(A), (a)(1)(B), or (a)(1)(C) of this Code section, or if the parent or legal guardian of the unemancipated minor cannot be located, the unemancipated minor may petition, on his or her own behalf or by next friend, any juvenile court in the state for a waiver of such requirement pursuant to the procedures provided for in Code Section 15-11-684. The juvenile court shall assist the unemancipated minor or next friend in preparing the petition and notices required pursuant to this Code section. Venue shall be lawful in any county.

(c) No abortion shall be performed unless the requirements of subparagraph (a)(1)(A), (a)(1)(B), or (a)(1)(C) of this Code section have been met or the unemancipated minor has obtained a court order waiving such requirements. (Code 1981, § 15-11-682, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed

effective date note at the beginning of this chapter.

15-11-683. (Effective January 1, 2014) Time and notice of hearing.

Notwithstanding Code Sections 15-11-40, 15-11-150, 15-11-152, 15-11-160, 15-11-281, 15-11-424, and 15-11-531, the unemancipated minor or next friend shall be notified of the date, time, and place of the hearing in such proceedings at the time of filing the petition. The hearing shall be held within three days of the date of filing, excluding weekends and legal holidays. The parent, guardian, or legal custodian of the unemancipated minor shall not be served with the petition or with a summons or otherwise notified of the proceeding. If a hearing is not held within the time prescribed in this Code section, the petition shall be deemed granted. (Code 1981, § 15-11-683, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-684. (Effective January 1, 2014) Conduct of hearing; appeal.

(a) An unemancipated minor may participate in proceedings in the court on such minor's own behalf and the court shall advise such minor of the right to court appointed counsel and shall provide such minor with such counsel upon request or if such minor is not already adequately represented.

(b) All court proceedings under this Code section shall be conducted in a manner to preserve the complete anonymity of the parties and shall be given such precedence over other pending matters as is necessary to ensure that a decision is reached by the court as expeditiously as is possible under the circumstances of the case. In no event shall the name, address, birth date, or social security number of such minor be disclosed.

(c) The requirements of subparagraph (a)(1)(A), (a)(1)(B), or (a)(1)(C) of Code Section 15-11-682 shall be waived if the court finds either:

(1) That the unemancipated minor is mature enough and well enough informed to make the abortion decision in consultation with her physician, independently of the wishes of such minor's parent or guardian; or

(2) That the notice to a parent or, if the unemancipated minor is subject to guardianship, the legal guardian pursuant to Code Section 15-11-682 would not be in the best interests of such minor.

(d) A court that conducts proceedings under this Code section shall issue written and specific factual findings and legal conclusions sup-

porting its decision and shall order that a record of the evidence be maintained. The juvenile court shall render its decision within 24 hours of the conclusion of the hearing and a certified copy of same shall be furnished immediately to the unemancipated minor. If the juvenile court fails to render its decision within 24 hours after the conclusion of the hearing, then the petition shall be deemed granted. All juvenile court records shall be sealed in a manner that will preserve anonymity.

(e) An expedited appeal completely preserving the anonymity of the parties shall be available to any unemancipated minor to whom the court denies a waiver of notice. The appellate courts are authorized and requested to issue promptly such rules as are necessary to preserve anonymity and to ensure the expeditious disposition of procedures provided by this Code section. In no event shall the name, address, birth date, or social security number of such minor be disclosed during the expedited appeal or thereafter.

(f) No filing fees shall be required of any unemancipated minor who uses the procedures provided by this Code section. (Code 1981, § 15-11-684, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-685. (Effective January 1, 2014) Applicability to nonresidents.

The requirements and procedures of this article shall apply to all unemancipated minors within this state whether or not such persons are residents of this state. (Code 1981, § 15-11-685, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-686. (Effective January 1, 2014) Medical emergency.

This article shall not apply when, in the best clinical judgment of the attending physician on the facts of the case before him or her, a medical emergency exists that so complicates the condition of the unemancipated minor as to require an immediate abortion. A person who performs an abortion as a medical emergency under the provisions of this Code section shall certify in writing the medical indications on which this judgment was based when filing such reports as are required by law. (Code 1981, § 15-11-686, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed

effective date note at the beginning of this chapter.

15-11-687. (Effective January 1, 2014) Immunity of health care provider acting in good faith.

Any physician or any person employed or connected with a physician, hospital, or health care facility performing abortions who acts in good faith shall be justified in relying on the representations of the unemancipated minor or of any other person providing the information required under this article. No physician or other person who furnishes professional services related to an act authorized or required by this article and who relies upon the information furnished pursuant to this article shall be held to have violated any criminal law or to be civilly liable for such reliance, provided that the physician or other person acted in good faith. (Code 1981, § 15-11-687, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed

effective date note at the beginning of this chapter.

15-11-688. (Effective January 1, 2014) Penalty.

Any person who violates the provisions of this article shall be guilty of a misdemeanor and any person who intentionally encourages another to provide false information pursuant to this article shall be guilty of a misdemeanor. (Code 1981, § 15-11-688, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed

effective date note at the beginning of this chapter.

ARTICLE 9

ACCESS TO HEARINGS AND RECORDS

15-11-700. (Effective January 1, 2014) Admission to hearings of general public and media.

(a) As used in this Code section, the term “dependency proceeding” means a court proceeding stemming from a petition alleging that a child is a dependent child.

(b) The general public shall be admitted to:

(1) An adjudicatory hearing involving an allegation of a class A designated felony act or class B designated felony act;

(2) An adjudicatory hearing involving an allegation of delinquency brought in the interest of any child who has previously been adjudicated for committing a delinquent act; provided, however, the court shall close any delinquency hearing on an allegation of sexual assault or any delinquency hearing at which any party expects to introduce substantial evidence related to matters of dependency;

(3) Any child support hearing;

(4) Any hearing in a legitimation action filed pursuant to Code Section 19-7-22;

(5) At the court's discretion, any dispositional hearing involving any proceeding under this article; or

(6) Any hearing in a dependency proceeding, except as otherwise provided in subsection (c) of this Code section.

(c) The court may close the hearing in a dependency proceeding only upon making a finding upon the record and issuing a signed order stating the reason or reasons for closing all or part of a hearing in such proceeding and stating that:

(1) The proceeding involves an allegation of an act which, if done by an adult, would constitute a sexual offense under Chapter 6 of Title 16; or

(2) It is in the best interests of the child. In making such a determination, the court shall consider such factors as:

(A) The age of the child alleged or adjudicated as a dependent child;

(B) The nature of the allegations;

(C) The effect that an open court proceeding will have on the court's ability to reunite and rehabilitate the family unit; and

(D) Whether the closure is necessary to protect the privacy of a child, of a foster parent or other caretaker of a child, or of a victim of domestic violence.

(d) The court may close a hearing or exclude a person from a hearing in any proceeding on its own motion, by motion of a party to the proceeding, or by motion of the child who is the subject of the proceeding or the child's attorney or guardian ad litem.

(e) Only the parties, their counsel, witnesses, persons accompanying a party for his or her assistance, the victim, and any other persons as the court finds have a proper interest in the proceeding or in the work of the court may be admitted by the court to hearings from which the public is excluded; provided, however, that when the conduct alleged in

the dependency proceeding could give rise to a criminal or delinquent act prosecution, attorneys for the prosecution and the defense shall be admitted.

(f) The court may refuse to admit a person to a hearing in any proceeding upon making a finding upon the record and issuing a signed order that the person's presence at the hearing would:

- (1) Be detrimental to the best interests of the child who is a party to the proceeding;
- (2) Impair the fact-finding process; or
- (3) Be otherwise contrary to the interest of justice.

(g) The court may temporarily exclude any child from a termination of parental rights hearing except while allegations of his or her delinquency or child in need of services conduct are being heard.

(h) Any request for installation and use of electronic recording, transmission, videotaping, or motion picture or still photography of any judicial proceeding shall be made to the court at least two days in advance of the hearing. The request shall be evaluated by the court pursuant to the standards set forth in Code Section 15-1-10.1.

(i) The judge may order the media not to release identifying information concerning any child or family members or foster parent or other caretaker of a child involved in hearings open to the public.

(j) The general public shall be excluded from proceedings in juvenile court unless such hearing has been specified as one in which the general public shall be admitted to pursuant to this Code section. (Code 1981, § 15-11-700, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-701. (Effective January 1, 2014) Sealing of files and records; hearings; limitations on disclosure; identity of victim.

(a) Upon dismissal of a petition or complaint alleging delinquency or that a child is a child in need of services or completion of the process in a case handled through informal adjustment, mediation, or other nonadjudicatory procedure, the court shall order the sealing of the files and records in the case.

(b) On application of a person who has been adjudicated for committing a delinquent act or as a child in need of services or on the court's own motion, and after a hearing, the court shall order the sealing of the files and records in the proceeding if the court finds that:

(1) Two years have elapsed since the final discharge of the person;

(2) Since the final discharge of the person he or she has not been convicted of a felony or of a misdemeanor involving moral turpitude or adjudicated for committing a delinquent act or as a child in need of services and no proceeding seeking conviction or adjudication is pending against the person; and

(3) The person has been rehabilitated.

(c) On application of a person who has been adjudicated for a delinquent act or on the court's own motion, and after a hearing, the court shall order the sealing of the files and records in the proceeding, including those specified in Code Sections 15-11-702 and 15-11-708, if the court finds that the child was adjudicated for a delinquent act for a sexual crime as defined in Code Section 16-3-6 and such crime resulted from the child being:

(1) Trafficked for sexual servitude in violation of Code Section 16-5-46; or

(2) A victim of sexual exploitation as defined in Code Section 49-5-40.

(d) Reasonable notice of the hearing required by subsection (b) and (c) of this Code section shall be given to:

(1) The prosecuting attorney;

(2) DJJ, when appropriate;

(3) The authority granting the discharge if the final discharge was from an institution or from parole; and

(4) The law enforcement officers or department having custody of the files and records if the files and records specified in Code Sections 15-11-702 and 15-11-708 are included in the application or motion.

(e) Upon the entry of the order the proceeding shall be treated as if it had never occurred. All index references shall be deleted and the person, the court, the law enforcement officers, and the departments shall properly reply that no record exists pertaining to the person upon inquiry in any matter. Copies of the order shall be sent to each agency or designated official and shall also be sent to the deputy director of the Georgia Crime Information Center of the Georgia Bureau of Investigation. Inspection of the sealed files and records thereafter may be permitted by an order of the court upon petition by the person who is the subject of the records and otherwise only by those persons named in the order or to criminal justice officials upon petition to the court for official judicial enforcement or criminal justice purposes.

(f) The court may seal any record containing information identifying a victim of an act which, if done by an adult, would constitute a sexual

offense under Chapter 6 of Title 16. (Code 1981, § 15-11-701, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-702. (Effective January 1, 2014) Children's fingerprints, photographs, and names.

(a)(1) Every child charged with an offense that would be a felony if committed by an adult shall be fingerprinted and photographed upon being taken into custody.

(2) Fingerprints and photographs of children to be used in investigating the commission of crimes shall be taken and filed separately from those of adults by law enforcement officials and shall be made available as provided in this article and as may be directed by the court.

(b) Fingerprint files and photographs of children may be inspected by law enforcement officers when necessary for criminal justice purposes and for the discharge of their official duties. Other inspections may be authorized by the court in individual cases upon a showing that it is necessary in the public interest.

(c) If a child has been charged with an offense that if committed by an adult would be a felony or if the case is transferred to another court for prosecution, such child's identification data, and other pertinent information shall be forwarded to the Georgia Crime Information Center of the Georgia Bureau of Investigation. The center shall create a juvenile fingerprint file and enter the data into the computerized criminal history files. The Georgia Bureau of Investigation shall act as the official state repository for juvenile history data and shall be authorized to disseminate such data for the purposes specified in Code Section 15-11-708.

(d) Upon application of a child, fingerprints and photographs of such child shall be removed from the file and destroyed if a petition alleging delinquency is not filed or the proceedings are dismissed after either such petition is filed or the case is transferred to the juvenile court or the child is adjudicated not to be a delinquent child. The court shall notify the deputy director of the Georgia Crime Information Center when fingerprints and photographs are destroyed, and the Georgia Bureau of Investigation shall treat such records in the same manner as criminal history record information is restricted pursuant to Code Section 35-3-37.

(e) Except as provided in subsection (a) of this Code section, without the consent of the judge, a child shall not be photographed after he or

she is taken into custody unless the case is transferred to another court for prosecution.

(f) Upon request, the judge or his or her designee shall release the name of any child with regard to whom a petition has been filed alleging a child committed a class A designated felony act or class B designated felony act or alleging a child committed a delinquent act if such child has previously been adjudicated for committing a delinquent act or if such child has previously been before the court on a delinquency charge and adjudication was withheld. (Code 1981, § 15-11-702, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-703. (Effective January 1, 2014) Use of disposition and evidence.

Except as provided in subsection (d) of Code Section 24-6-609, the disposition of a child and evidence adduced in a hearing in the juvenile court may not be used against such child in any proceeding in any court other than for a proceeding for delinquency or a child in need of services, whether before or after reaching 18 years of age, except in the establishment of conditions of bail, plea negotiations, and sentencing in criminal offenses; and, in such excepted cases, such records of dispositions and evidence shall be available to prosecuting attorneys, superior or state court judges, and the accused and may be used in the same manner as adult records. (Code 1981, § 15-11-703, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-704. (Effective January 1, 2014) Public inspection of court files and records; use in subsequent juvenile or criminal prosecution.

(a) Except as provided in subsection (b) of this Code section and Code Sections 15-11-705 and 15-11-706, all files and records of the court in a proceeding under this chapter shall be open to inspection only upon order of the court.

(b) The general public shall be allowed to inspect court files and records for any proceeding that was open to the public pursuant to paragraphs (1) through (5) of subsection (b) of Code Section 15-11-700.

(c) A judge may permit authorized representatives of recognized organizations compiling statistics for proper purposes to inspect and

make abstracts from official records under whatever conditions upon their use and distribution such judge may deem proper and may punish by contempt any violation of those conditions.

(d) A judge shall permit authorized representatives of DJJ, the Governor's Office for Children and Families, and the Council of Juvenile Court Judges to inspect and extract data from any court files and records for the purpose of obtaining statistics on children and to make copies pursuant to the order of the court.

(e) Except as otherwise provided in Code Sections 15-11-701 and 15-11-703, the complaint, petition, order of adjudication, and order of disposition in any delinquency case shall be disclosed upon request of the prosecuting attorney or the accused for use preliminarily to or in conjunction with a subsequent juvenile or criminal proceeding in a court of record. (Code 1981, § 15-11-704, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-705. (Effective January 1, 2014) Child in need of services records; penalty for disclosure.

(a) Notwithstanding other provisions of this article, the court records of proceedings under Article 5 of this chapter shall be withheld from public inspection but shall be open to inspection by juvenile probation and parole officers, a child who is a party in a proceeding, his or her parent, guardian, or legal custodian, such child's attorney, and others entrusted with the supervision of such child. Additional access to court records may be granted by court order.

(b) It shall be unlawful for any person to disclose court records, or any part thereof, to persons other than those entitled to access under subsection (a) of this Code section, except by court order. Any person who knowingly violates this subsection shall be guilty of contempt and the court may enter any order authorized by the provisions of Code Section 15-11-31. (Code 1981, § 15-11-705, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-706. (Effective January 1, 2014) Records for cases handled through informal adjustment, mediation, or other nonadjudicatory procedure; penalty for disclosure.

(a) When a decision is made to handle a case through informal adjustment, mediation, or other nonadjudicatory procedure, the juvenile court intake officer shall file with the court in the county in which a child legally resides all of the following information:

- (1) The name, address, and date of birth of the child subject to informal adjustment, mediation, or other nonadjudicatory procedure;
- (2) The act or offense for which such child was apprehended;
- (3) The diversion decision made;
- (4) The nature of such child's compliance with an informal adjustment agreement; and
- (5) If an informal adjustment agreement is revoked, the fact of and reasons for the revocation.

(b) Notwithstanding subsection (a) of Code Section 15-11-701, the court in the county in which a child resides shall keep a separate record for such child which shall be open to the court, the prosecuting attorney, or an officer designated by the court only for the purpose of deciding whether to handle a subsequent case through informal adjustment, mediation, or other nonadjudicatory procedure or for use in disposition of a subsequent proceeding. Any person who knowingly violates this subsection shall be guilty of contempt and the court may enter any order authorized by the provisions of Code Section 15-11-31. (Code 1981, § 15-11-706, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-707. (Effective January 1, 2014) Notice to school superintendent.

Within 30 days of any proceeding in which a child is adjudicated for committing a delinquent act for a second or subsequent time or is adjudicated for committing a class A designated felony act or class B designated felony act, the court shall provide written notice to the school superintendent of the school in which such child is enrolled or his or her designee or, if the information is known, of the school in which such child plans to be enrolled at a future date. Such notice shall include the specific delinquent act or class A designated felony act or class B designated felony act such child committed. (Code 1981, § 15-11-707, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-708. (Effective January 1, 2014) Separation of juvenile and adult records for law enforcement; inspection; limited fingerprint access.

(a) Law enforcement records and files concerning a child shall be kept separate from the records and files of arrests of adults.

(b) Unless a charge of delinquency is transferred for criminal prosecution, the interest of national security requires, the case is one in which the general public may not be excluded from the hearings, or the court otherwise orders in the best interests of the child, the records and files shall not be open to public inspection nor shall their contents be disclosed to the public.

(c) Inspection of the records and files shall be permitted by:

(1) A juvenile court having a child before it in any proceeding;

(2) The attorney for a party to the proceedings, with the consent of the court;

(3) The officers of public institutions or agencies to whom a child is committed;

(4) Law enforcement officers and prosecuting attorneys of this state, the United States, or any other jurisdiction when necessary for the discharge of their official duties;

(5) A court in which a child is convicted of a criminal offense, for the purpose of a presentence report or other disposition proceeding;

(6) Officials of penal institutions and other penal facilities to which a child is committed; or

(7) A parole board in considering a child's parole or discharge or in exercising supervision over such child.

(d) The court shall allow authorized representatives of DJJ, the Governor's Office for Children and Families, and the Council of Juvenile Court Judges to inspect and copy law enforcement records for the purpose of obtaining statistics on children.

(e) Access to fingerprint records submitted to the Georgia Bureau of Investigation shall be limited to the administration of criminal justice purposes. (Code 1981, § 15-11-708, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-709. (Effective January 1, 2014) Preservation and destruction of records; computer retrieval.

(a) Subject to the earlier sealing of certain records pursuant to Code Section 15-11-701, the juvenile court shall make and keep records of all cases brought before it and shall preserve the records pertaining to a child in accordance with the common records retention schedules for courts approved by the State Records Committee pursuant to Code Section 50-18-92.

(b) Thereafter, the court may destroy such records, except that the records of cases in which a court terminates the parental rights of a parent and the records of cases involving a petition for legitimation of a child shall be preserved permanently.

(c) The juvenile court shall make official minutes consisting of all petitions and orders filed in a case and any other pleadings, certificates, proofs of publication, summonses, warrants, and other writs which may be filed and shall make social records consisting of records of investigation and treatment and other confidential information.

(d) Identification data shall be maintained and shall be disseminated to criminal justice officials for official judicial enforcement or criminal justice purposes as provided in Code Section 35-3-33.

(e) Nothing in this chapter shall restrict or otherwise prohibit a juvenile court clerk from electing to store for computer retrieval any or all records, dockets, indexes, or files; nor shall a juvenile court clerk be prohibited from combining or consolidating any books, dockets, files, or indexes in connection with the filing for record of papers of the kind specified in this chapter or any other law, provided that any automated or computerized record-keeping method or system shall provide for the systematic and safe preservation and retrieval of all books, dockets, records, or indexes. When the clerk of a juvenile court elects to store for computer retrieval any or all records, the same data elements used in a manual system shall be used, and the same integrity and security shall be maintained. (Code 1981, § 15-11-709, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-710. (Effective January 1, 2014) Exchange of information.

(a) As used in this Code section, the term “governmental entity” shall mean the court, superior court, DJJ, DBHDD, DFACS, county departments of family and children services, or public schools, as such term is defined in Code Section 16-11-35.

(b) Governmental entities and state, county, municipal, or consolidated government departments, boards, or agencies shall exchange with each other all information not held as confidential pursuant to federal law and relating to a child which may aid a governmental entity in the assessment, treatment, intervention, or rehabilitation of a child, notwithstanding Code Section 15-1-15, 15-11-40, 15-11-105, 15-11-170, 15-11-264, 15-11-541, 15-11-542, 15-11-603, 15-11-708, 15-11-709, 15-11-744, 20-2-751.2, 20-14-40, 24-12-10, 24-12-11, 24-12-20, 26-4-5, 26-4-80, 26-5-17, 31-5-5, 31-33-6, 37-1-53, 37-2-9.1, 42-5-36, 42-8-40, 42-8-106, 49-5-40, 49-5-41, 49-5-41.1, 49-5-44, 49-5-45, 49-5-183, 49-5-184, 49-5-185, or 49-5-186, in order to serve the best interests of such child. Information which is shared pursuant to this subsection shall not be utilized to assist in the prosecution of a child in juvenile, superior, or state court or utilized to the detriment of such child.

(c) Information released pursuant to this Code section shall not change or rescind the confidential nature of such information and such information shall not be subject to public disclosure or inspection unless otherwise provided by law. (Code 1981, § 15-11-710, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

ARTICLE 10
EMANCIPATION

15-11-720. (Effective January 1, 2014) Conditions under which emancipation may occur.

(a) Emancipation may occur by operation of law or pursuant to a petition filed with the court as provided in this article by a child who is at least 16 years of age.

(b) An emancipation occurs by operation of law:

- (1) When a child is validly married;
- (2) When a child reaches the age of 18 years; or

(3) During the period when a child is on active duty with the armed forces of the United States.

(c) An emancipation occurs by court order pursuant to a petition filed by a child with the juvenile court. (Code 1981, § 15-11-720, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-721. (Effective January 1, 2014) Petition requirements.

A child seeking emancipation shall file a petition for emancipation in the juvenile court in the county where such child resides. The petition shall be signed and verified by the petitioner, and shall include:

(1) The petitioner's full name and birth date and the county and state where the petitioner was born;

(2) A certified copy of the petitioner's birth certificate;

(3) The name and last known address of the petitioner's parent, guardian, or legal custodian and, if no parent, guardian, or legal custodian can be found, the name and address of the petitioner's nearest living relative residing within this state;

(4) The petitioner's present address and length of residency at that address;

(5) A declaration by the petitioner demonstrating the ability to manage his or her financial affairs together with any information necessary to support the declaration;

(6) A declaration by the petitioner demonstrating the ability to manage his or her personal and social affairs together with any information necessary to support the declaration; and

(7) The names of individuals who have personal knowledge of the petitioner's circumstances and believe that under those circumstances emancipation is in the best interests of the petitioner. Such individuals may include any of the following:

(A) A licensed physician, physician assistant, or osteopath;

(B) A registered professional nurse or licensed practical nurse;

(C) A licensed psychologist;

(D) A licensed professional counselor, social worker, or marriage and family therapist;

(E) A school guidance counselor, school social worker, or school psychologist;

(F) A school administrator, school principal, or school teacher;

(G) A member of the clergy;

(H) A law enforcement officer; or

(I) An attorney. (Code 1981, § 15-11-721, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed

effective date note at the beginning of this chapter.

15-11-722. (Effective January 1, 2014) Summons, answer, and time limitations.

(a) Upon filing the petition, a copy of the petition for emancipation and a summons to appear at the hearing shall be served on all persons named in the petition and upon any individual who provided an affidavit for the emancipation.

(b) A person served with a petition may file an answer in the juvenile court in which the petition was filed within 30 days of being served. (Code 1981, § 15-11-722, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed

effective date note at the beginning of this chapter.

15-11-723. (Effective January 1, 2014) Appointment of attorney and guardian ad litem; affidavits of adults supporting emancipation.

(a) After a petition for emancipation is filed, the court may:

(1) Appoint a guardian ad litem to investigate the allegations of the petition and to file a report with the court, including a recommendation as to whether it is in the best interests of the petitioner that the petition for emancipation be granted;

(2) Appoint an attorney for the petitioner; and

(3) Appoint an attorney for the petitioner's parent, guardian, or legal custodian if he or she is an indigent person and if he or she opposes the petition.

(b) After a petition for emancipation is filed, the court shall seek an affidavit from each person identified in the petition pursuant to paragraph (7) of Code Section 15-11-721 that describes why that person believes the petitioner should be emancipated. (Code 1981, § 15-11-723, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-724. (Effective January 1, 2014) Standard of proof.

A child who petitions the court for emancipation shall have the burden of showing that emancipation should be ordered by a preponderance of evidence. (Code 1981, § 15-11-724, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-725. (Effective January 1, 2014) Emancipation hearing; findings.

(a) The court shall issue an emancipation order if, after a hearing, it determines that emancipation is in the best interests of the child and such child has established:

(1) That his or her parent, guardian, or legal custodian does not object to the petition; or, if a parent, guardian, or legal custodian objects to the petition, that the best interests of the child are served by allowing the emancipation to occur by court order;

(2) That he or she is a resident of this state;

(3) That he or she has demonstrated the ability to manage his or her financial affairs, including proof of employment or other means of support. "Other means of support" shall not include general assistance or aid received from means-tested public assistance programs such as Temporary Assistance for Needy Families as provided in Article 9 of Chapter 4 of Title 49 or similar programs under Title IV-A of the federal Social Security Act;

(4) That he or she has the ability to manage his or her personal and social affairs, including, but not limited to, proof of housing; and

(5) That he or she understands his or her rights and responsibilities under this article as an emancipated child.

(b) If the court issues an emancipation order, the court shall retain a copy of the order until the emancipated child becomes 25 years of age.

(c) An emancipation obtained by fraud is voidable. Voiding an emancipation order shall not affect an obligation, responsibility, right, or interest that arose during the period of time the order was in effect.

(d) A child or his or her parent, guardian, or legal custodian may appeal the court's grant or denial of an emancipation petition. (Code 1981, § 15-11-725, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed

effective date note at the beginning of this chapter.

15-11-726. (Effective January 1, 2014) Rescission of emancipation order.

(a) A child emancipated by court order may petition the juvenile court that issued the emancipation order to rescind such order.

(b) A copy of the petition for rescission and a summons shall be served on the petitioner's parent, guardian, or legal custodian.

(c) The court shall grant the petition and rescind the order of emancipation if it finds:

(1) That the petitioner is an indigent person and has no means of support;

(2) That the petitioner and the petitioner's parent, guardian, or legal custodian agree that the order should be rescinded; or

(3) That there is a resumption of family relations inconsistent with the existing emancipation order.

(d) If a petition for rescission is granted, the court shall issue an order rescinding the emancipation order and retain a copy of the order until the petitioner becomes 25 years of age.

(e) Rescission of an emancipation order shall not alter any contractual obligations or rights or any property rights or interests that arose during the period of time that the emancipation order was in effect.

(f) A child or his or her parent, guardian, or legal custodian may appeal the court's grant or denial of a petition for rescission of an emancipation order. The appeal shall be filed in the Court of Appeals. (Code 1981, § 15-11-726, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed

effective date note at the beginning of this chapter.

15-11-727. (Effective January 1, 2014) Rights of emancipated child; limitations of parental obligations.

(a) A child emancipated by operation of law or by court order shall be considered to have the rights and responsibilities of an adult, except for those specific constitutional and statutory age requirements regarding voting, use of alcoholic beverages, and other health and safety regulations relevant to a child because of his or her age. The rights of a child to receive any transfer of property or money pursuant to "The Georgia Transfers to Minors Act" under Article 5 of Chapter 5 of Title 44; under

the Uniform Transfers to Minors Act, the Uniform Gift to Minors Act, or other substantially similar act of another state; or pursuant to a trust agreement shall not be affected by a declaration of an emancipation under this article.

(b) A child shall be considered emancipated for the purposes of, but not limited to:

- (1) The right to enter into enforceable contracts, including apartment leases;
- (2) The right to sue or be sued in his or her own name;
- (3) The right to retain his or her own earnings;
- (4) The right to establish a separate domicile;
- (5) The right to act autonomously, and with the rights and responsibilities of an adult, in all business relationships, including but not limited to property transactions and obtaining accounts for utilities, except for those estate or property matters that the court determines may require a conservator or guardian ad litem;
- (6) The right to earn a living, subject only to the health and safety regulations designed to protect those under the age of 18 regardless of their legal status;
- (7) The right to authorize his or her own preventive health care, medical care, dental care, and mental health care, without parental knowledge or liability;
- (8) The right to apply for a driver's license or other state licenses for which he or she might be eligible;
- (9) The right to register for school;
- (10) The right to apply for medical assistance programs and for other welfare assistance, if needed;
- (11) The right, if a parent, to make decisions and give authority in caring for his or her own minor child; and
- (12) The right to make a will.

(c) A parent, guardian, or legal custodian of a child emancipated by court order shall not be liable for any debts incurred by his or her child during the period of emancipation. (Code 1981, § 15-11-727, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-728. (Effective January 1, 2014) Duty to support; ability to marry.

(a) The duty to provide support for a child shall continue until an emancipation order is granted.

(b) A child emancipated under this article shall not be considered a dependent child.

(c) The provisions set forth in Code Section 19-3-2 regarding age limitations to contract for marriage shall apply to a child who has become emancipated under this article. (Code 1981, § 15-11-728, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

ARTICLE 11

GEORGIA CHILD ADVOCATE FOR THE PROTECTION OF CHILDREN ACT

15-11-740. (Effective January 1, 2014) Short title; purpose.

(a) This article shall be known and may be cited as the “Georgia Child Advocate for the Protection of Children Act.”

(b) In keeping with this article’s purpose of assisting, protecting, and restoring the security of children whose well-being is threatened, it is the intent of the General Assembly that the mission of protection of the children of this state should have the greatest legislative and executive priority. Recognizing that the needs of children must be attended to in a timely manner and that more aggressive action should be taken to protect children from abuse and neglect, the General Assembly creates the Office of the Child Advocate for the Protection of Children to provide independent oversight of persons, organizations, and agencies responsible for providing services to or caring for children who are victims of child abuse and neglect or whose domestic situation requires intervention by the state. The Office of the Child Advocate for the Protection of Children will provide children with an avenue through which to seek relief when their rights are violated by state officials and agents entrusted with their protection and care. (Code 1981, § 15-11-740, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-741. (Effective January 1, 2014) Definitions.

As used in this article, the term:

(1) "Advocate" or "child advocate" means the Child Advocate for the Protection of Children established under Code Section 15-11-742.

(2) "Agency" shall have the same meaning and application as provided for in paragraph (1) of subsection (a) of Code Section 50-14-1.

(3) "Child" or "children" means an individual receiving protective services from DFCS, for whom DFCS has an open case file, or who has been, or whose siblings, parents, or other caretakers have been, the subject of a report to DFCS within the previous five years. (Code 1981, § 15-11-741, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed

effective date note at the beginning of this chapter.

15-11-742. (Effective January 1, 2014) Creation of the Office of Child Advocate for the Protection of Children; staff and personnel; contracts.

(a) There is created the Office of the Child Advocate for the Protection of Children. The Governor, by executive order, shall create a nominating committee which shall consider nominees for the position of the advocate and shall make a recommendation to the Governor. Such person shall have knowledge of the child welfare system, the juvenile justice system, and the legal system and shall be qualified by training and experience to perform the duties of the office as set forth in this article.

(b) The advocate shall be appointed by the Governor from a list of at least three names submitted by the nominating committee for a term of three years and until his or her successor is appointed and qualified and may be reappointed. The salary of the advocate shall not be less than \$60,000.00 per year, shall be fixed by the Governor, and shall come from funds appropriated for the purposes of the advocate.

(c) The Office of the Child Advocate for the Protection of Children shall be assigned to the Office of Planning and Budget for administrative purposes only, as described in Code Section 50-4-3.

(d) The advocate may appoint such staff as may be deemed necessary to effectively fulfill the purposes of this article, within the limitations of the funds available for the purposes of the advocate. The duties of the staff may include the duties and powers of the advocate if performed under the direction of the advocate. The advocate and his or her staff

shall receive such reimbursement for travel and other expenses as is normally allowed to state employees from funds appropriated for the purposes of the advocate.

(e) The advocate shall have the authority to contract with experts in fields including but not limited to medicine, psychology, education, child development, juvenile justice, mental health, and child welfare as needed to support the work of the advocate, utilizing funds appropriated for the purposes of the advocate.

(f) Notwithstanding any other provision of state law, the advocate shall act independently of any state official, department, or agency in the performance of his or her duties.

(g) The advocate or his or her designee shall be a member of the Georgia Child Fatality Review Panel. (Code 1981, § 15-11-742, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-743. (Effective January 1, 2014) Duties of advocate.

The advocate shall perform the following duties:

(1) Identify, receive, investigate, and seek the resolution or referral of complaints made by or on behalf of children concerning any act, omission to act, practice, policy, or procedure of an agency or any contractor or agent thereof that may adversely affect the health, safety, or welfare of the children;

(2) Refer complaints involving abused children to appropriate regulatory and law enforcement agencies;

(3) Coordinate and supervise the work of the Georgia Child Fatality Review Panel created by Code Section 19-15-4 and provide such staffing and administrative support to the panel as may be necessary to enable the panel to carry out its statutory duties;

(4) Report the death of any child to the chairperson of the child fatality review subcommittee of the county in which such child resided at the time of death, unless the advocate has knowledge that such death has been reported by the county medical examiner or coroner, pursuant to Code Section 19-15-3, and to provide such subcommittee access to any records of the advocate relating to such child;

(5) Provide periodic reports on the work of the Office of the Child Advocate for the Protection of Children, including but not limited to an annual written report for the Governor and the General Assembly

and other persons, agencies, and organizations deemed appropriate. Such reports shall include recommendations for changes in policies and procedures to improve the health, safety, and welfare of children and shall be made expeditiously in order to timely influence public policy;

(6) Establish policies and procedures necessary for the Office of the Child Advocate for the Protection of Children to accomplish the purposes of this article, including without limitation providing DFCS with a form of notice of availability of the Office of the Child Advocate for the Protection of Children. Such notice shall be posted prominently, by DFCS, in DFCS offices and in facilities receiving public moneys for the care and placement of children and shall include information describing the Office of the Child Advocate for the Protection of Children and procedures for contacting that office; and

(7) Convene quarterly meetings with organizations, agencies, and individuals who work in the area of child protection to seek opportunities to collaborate and improve the status of children in Georgia. (Code 1981, § 15-11-743, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-744. (Effective January 1, 2014) Rights and powers of advocate; subpoena; judicial actions.

(a) The advocate shall have the following rights and powers:

(1) To communicate privately, by mail or orally, with any child and with each child's parent, guardian, or legal custodian;

(2) To have access to all records and files of DFCS concerning or relating to a child, and to have access, including the right to inspect, copy, and subpoena records held by clerks of the various courts, law enforcement agencies, service providers, including medical and mental health, and institutions, public or private, with whom a particular child has been either voluntarily or otherwise placed for care or from whom the child has received treatment within this state. To the extent any such information provides the names and addresses of individuals who are the subject of any confidential proceeding or statutory confidentiality provisions, such names and addresses or related information that has the effect of identifying such individuals shall not be released to the public without the consent of such individuals. The Office of the Child Advocate for the Protection of Children shall be bound by all confidentiality safeguards provided in Code Sections 49-5-40 and 49-5-44. Anyone wishing to obtain records

held by the Office of the Child Advocate shall petition the original agency of record where such records exist;

(3) To enter and inspect any and all institutions, facilities, and residences, public and private, where a child has been placed by a court or DFCS and is currently residing. Upon entering such a place, the advocate shall notify the administrator or, in the absence of the administrator, the person in charge of the facility, before speaking to any children. After notifying the administrator or the person in charge of the facility, the advocate may communicate privately and confidentially with children in the facility, individually or in groups, or the advocate may inspect the physical plant. To the extent possible, entry and investigation provided by this Code section shall be conducted in a manner which will not significantly disrupt the provision of services to children;

(4) To apply to the Governor to bring legal action in the nature of a writ of mandamus or application for injunction pursuant to Code Section 45-15-18 to require an agency to take or refrain from taking any action required or prohibited by law involving the protection of children;

(5) To apply for and accept grants, gifts, and bequests of funds from other states, federal and interstate agencies, independent authorities, private firms, individuals, and foundations for the purpose of carrying out the lawful responsibilities of the Office of the Child Advocate for the Protection of Children;

(6) When less formal means of resolution do not achieve appropriate results, to pursue remedies provided by this article on behalf of children for the purpose of effectively carrying out the provisions of this article; and

(7) To engage in programs of public education and legislative advocacy concerning the needs of children requiring the intervention, protection, and supervision of courts and state and county agencies.

(b)(1) Upon issuance by the advocate of a subpoena in accordance with this article for law enforcement investigative records concerning an ongoing investigation, the subpoenaed party may move a court with appropriate jurisdiction to quash such subpoena.

(2) The court shall order a hearing on the motion to quash within five days of the filing of the motion to quash, and the hearing may be continued for good cause shown by any party or by the court on its own motion. Subject to any right to an open hearing in contempt proceedings, such hearing shall be closed to the extent necessary to prevent disclosure of the identity of a confidential source; disclosure of confidential investigative or prosecution material which would

endanger the life or physical safety of any person or persons; or disclosure of the existence of confidential surveillance, investigation, or grand jury materials or testimony in an ongoing criminal investigation or prosecution. Records, motions, and orders relating to a motion to quash shall be kept sealed by the court to the extent and for the time necessary to prevent public disclosure of such matters, materials, evidence, or testimony.

(c) The court shall, at or before the time specified in the subpoena for compliance therewith, enter an order:

(1) Enforcing the subpoena as issued;

(2) Quashing or modifying the subpoena if it is unreasonable and oppressive; or

(3) Conditioning enforcement of the subpoena on the advocate maintaining confidential any evidence, testimony, or other information obtained from law enforcement or prosecution sources pursuant to the subpoena until the time the criminal investigation and prosecution are concluded. Unless otherwise ordered by the court, an investigation or prosecution shall be deemed to be concluded when the information becomes subject to public inspection pursuant to Code Section 50-18-72. The court shall include in its order written findings of fact and conclusions of law. (Code 1981, § 15-11-744, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed

effective date note at the beginning of this chapter.

15-11-745. (Effective January 1, 2014) Discrimination or retaliation prohibited against persons making complaints or providing information.

(a) No person shall discriminate or retaliate in any manner against any child, parent, guardian, or legal custodian of a child, employee of a facility, agency, institution or other type of provider, or any other person because of the making of a complaint or providing of information in good faith to the advocate or willfully interfere with the advocate in the performance of his or her official duties.

(b) Any person violating subsection (a) of this Code section shall be guilty of a misdemeanor. (Code 1981, § 15-11-745, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed

effective date note at the beginning of this chapter.

15-11-746. (Effective January 1, 2014) Investigation of complaints.

The advocate shall be authorized to request an investigation by the Georgia Bureau of Investigation of any complaint of criminal misconduct involving a child. (Code 1981, § 15-11-746, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

15-11-747. (Effective January 1, 2014) Child advocate advisory committee; membership; role of committee.

(a) There is established a Child Advocate Advisory Committee. The advisory committee shall consist of:

- (1) One representative of a not for profit children's agency appointed by the Governor;
- (2) One representative of a for profit children's agency appointed by the Lieutenant Governor;
- (3) One pediatrician appointed by the Speaker of the House of Representatives;
- (4) One social worker with experience and knowledge of child protective services who is not employed by the state appointed by the Governor;
- (5) One psychologist appointed by the Lieutenant Governor;
- (6) One attorney from the Children and the Courts Committee of the State Bar of Georgia appointed by the Speaker of the House of Representatives; and
- (7) One juvenile court judge appointed by the Chief Justice of the Supreme Court.

Each member of the advisory committee shall serve a two-year term and until the appointment and qualification of such member's successor. Appointments to fill vacancies in such offices shall be filled in the same manner as the original appointment.

(b) The advisory committee shall meet a minimum of three times a year with the advocate and his or her staff to review and assess the following:

- (1) Patterns of treatment and service for children;
- (2) Policy implications; and

(3) Necessary systemic improvements.

The advisory committee shall also provide for an annual evaluation of the effectiveness of the Office of the Child Advocate for the Protection of Children. (Code 1981, § 15-11-747, enacted by Ga. L. 2013, p. 294, § 1-1/HB 242.)

Delayed effective date. — For information as to the delayed repeal and reenactment of this chapter, see the delayed effective date note at the beginning of this chapter.

CHAPTER 12

JURIES

Article 1

General Provisions

Article 5

Trial Juries

Sec.

15-12-11. Appointment of jury clerk and other personnel; juror questionnaires; construction with other laws.

PART 1

IN GENERAL

Sec.

15-12-140. Oath of bailiffs.

ARTICLE 1

GENERAL PROVISIONS

15-12-2. Legislators excused.

Cross references. — Legislator exemption, § 24-13-29.

15-12-11. Appointment of jury clerk and other personnel; juror questionnaires; construction with other laws.

(a) In all counties having a population of 600,000 or more according to the United States decennial census of 1990 or any future such census, the judges of the superior court of such counties, by a majority vote of all of them, shall have the power to appoint a jury clerk and such other personnel as may be deemed necessary or advisable to dispatch the work of the court. The appointments to such positions and the compensation therefor shall be determined by the judges without regard to any other system or rules, such personnel to serve at the pleasure of the judges. The salaries and expenses of the personnel and any attendant expense of administration of the courts are determined to be contingent expense of court and shall be paid as provided by law

for the payment of contingent expenses. The duties of the personnel shall be as prescribed by the judges.

(b) Prospective jurors in all counties may be required to answer written questionnaires, as may be determined and submitted by the judges of such counties, concerning their qualifications as jurors. In propounding the court’s questions, the court may consider the suggestions of counsel. In the court’s questionnaire and during voir dire examination, judges should ensure that the privacy of prospective jurors is reasonably protected and that the questioning by counsel is consistent with the purpose of the voir dire process.

(c) Juror questionnaires shall be confidential and shall be exempt from public disclosure pursuant to Article 4 of Chapter 18 of Title 50; provided, however, that jury questionnaires shall be provided to the court and to the parties at any stage of the proceedings, including pretrial, trial, appellate, or postconviction proceedings, and shall be made a part of the record under seal. The information disclosed to a party pursuant to this subsection shall only be used by the parties for purposes of pursuing a claim, defense, or other issue in the case.

(d) In the event any prospective juror fails or refuses to answer the questionnaire, the clerk shall report the failure or refusal to the court together with the facts concerning the same, and the court shall have such jurisdiction as is provided by law for subpoena, attachment, and contempt powers.

(e) This Code section shall be supplemental to other provisions of law, with a view toward efficient and orderly handling of jury selection and the administration of justice. (Ga. L. 1964, p. 2119, §§ 1-4; Code 1981, § 15-12-11, enacted by Ga. L. 1982, p. 2107, § 12; Ga. L. 1992, p. 1228, § 1; Ga. L. 1995, p. 1292, § 2; Ga. L. 2011, p. 59, § 1-11/HB 415; Ga. L. 2012, p. 218, § 3/HB 397; Ga. L. 2013, p. 141, § 15/HB 79.)

The 2013 amendment, effective April 24, 2013, part of an Act to revise, modernize, and correct the Code, revised punctuation in subsection (c).

Law reviews. — For article on the 2012 amendment of this Code section, see 29 Ga. St. U.L. Rev. 139 (2012).

ARTICLE 3

SELECTION OF JURORS

15-12-40. Ineligibility to serve as trial juror.

JUDICIAL DECISIONS

Cited in *Ellington v. State*, 292 Ga. 109, 735 S.E.2d 736 (2012).

15-12-40.1. State-wide master jury list; driver’s license information; list of registered voters; random list of persons to comprise venire.

JUDICIAL DECISIONS

ANALYSIS

GENERAL CONSIDERATION

General Consideration

Cited in *Ellington v. State*, 292 Ga. 109, 735 S.E.2d 736 (2012).

ARTICLE 4

GRAND JURIES

PART 1

GENERAL PROVISIONS

15-12-60. Qualifications of grand jurors.

Law reviews. — For annual survey on criminal law, see 64 Mercer L. Rev. 83 (2012).

JUDICIAL DECISIONS

ANALYSIS

GENERAL CONSIDERATION

INCOMPETENCY

2. ELECTED OFFICE

General Consideration

Cited in *Keever v. Dellinger*, 291 Ga. 860, 734 S.E.2d 874 (2012).

Incompetency

2. Elected Office

City council member ineligible for grand jury service. — Trial court erred in denying the defendant’s motion to

quash an indictment because a city council member, who was an elected local government officeholder, was ineligible to serve on a grand jury under O.C.G.A. § 15-12-60(b)(1); nonetheless, the city council member served on the grand jury that issued the indictment against the defendant. *State v. Dempsey*, 290 Ga. 763, 727 S.E.2d 670 (2012).

15-12-71. Duties of grand jury.

Law reviews. — For annual survey on criminal law, see 64 Mercer L. Rev. 83 (2012).

PART 2

SPECIAL PURPOSE GRAND JURIES

15-12-100. Procedure for impaneling special grand jury; number of jurors; foreperson; powers of jury.

Law reviews. — For annual survey on criminal law, see 64 Mercer L. Rev. 83 (2012).

ARTICLE 5

TRIAL JURIES

PART 1

IN GENERAL

15-12-122. Demand of jury panels from which to select jury in civil actions in the state courts and the superior courts.

JUDICIAL DECISIONS

No exhaustion of peremptory strikes required to show harm. — In a medical malpractice case, the appellate court erred by concluding that the plaintiff could not prove the plaintiff was harmed by the trial court's refusal to strike four allegedly biased jurors because the plaintiff did not show that the plaintiff

had been forced to exhaust the plaintiff's peremptory strikes to eliminate those jurors because the rule in Harris, not requiring exhaustion of peremptory strikes as a condition of establishing harm to criminal cases also applies in civil cases. *Stolte v. Fagan*, 291 Ga. 477, 731 S.E.2d 653 (2012).

15-12-123. Demand of jury panels in civil actions in the state courts.

JUDICIAL DECISIONS

No exhaustion of peremptory strikes required to show harm. — In a medical malpractice case, the appellate court erred by concluding that the plaintiff could not prove the plaintiff was harmed by the trial court's refusal to strike four allegedly biased jurors because the plaintiff did not show that the plaintiff

had been forced to exhaust the plaintiff's peremptory strikes to eliminate those jurors because the rule in Harris, not requiring exhaustion of peremptory strikes as a condition of establishing harm to criminal cases also applies in civil cases. *Stolte v. Fagan*, 291 Ga. 477, 731 S.E.2d 653 (2012).

15-12-125. Demand of jury panels for misdemeanor trials.

JUDICIAL DECISIONS

Cited in *Stolte v. Fagan*, 291 Ga. 477, 731 S.E.2d 653 (2012).

15-12-133. Right to individual examination of panel; matters of inquiry.

JUDICIAL DECISIONS

ANALYSIS

GENERAL CONSIDERATION

MATTERS OF INQUIRY

3. OTHER QUESTIONS

General Consideration

Extent of questioning during voir dire. — Georgia Supreme Court holds that the subject matter of the action as to which voir dire is permitted under O.C.G.A. § 15-12-133 extends beyond the crimes charged in the indictment and the sentences the charges carry to other critical facts of the case that experience, reason, and common sense indicate will be so influential for at least some prospective jurors that those jurors will be unable to consider all of the evidence in the case with three limitations: 1) the issue is not whether the prospective juror will consider a critical fact to be very important or worthy of great weight; 2) voir dire questions must be framed properly to reveal the prospective juror's general view on the critical fact and whether that view is so strong that it would substantially impair the juror in considering all three sentencing options; and 3) decisions as to what, if any, facts of a particular criminal case beyond the charges and sentencing options qualify as critical in terms of risking juror partiality can be difficult and

context-specific. *Ellington v. State*, 292 Ga. 109, 735 S.E.2d 736 (2012).

Matters of Inquiry

3. Other Questions

Questioning to identify individuals with strong feelings about drugs. — Any error in the trial court's limit on voir dire was harmless because the defendant was permitted to question the venire as a whole to identify prospective jurors who had strong feelings about individuals involved in the sale of drugs. *Ellis v. State*, 292 Ga. 276, 736 S.E.2d 412 (2013).

Questions about sentencing options. — Trial court abused the court's discretion in prohibiting the defendant from asking voir dire questions of prospective jurors as to whether the jurors would automatically impose the death penalty as opposed to fairly considering all three sentencing options (death, life without parole, and life with the possibility of parole) in a case involving the murder of young children as such questioning was permitted under O.C.G.A. § 15-12-133. *Ellington v. State*, 292 Ga. 109, 735 S.E.2d 736 (2012).

15-12-135. Disqualification for relationship to interested party.

JUDICIAL DECISIONS

ANALYSIS

PLEADING AND PRACTICE

Pleading and Practice

Issues of disqualification waived. — Defendant waived the right to argue on appeal that a prospective juror was disqualified from service and should have

been struck for cause because the defendant never sought to have the juror dismissed for cause. *Lewis v. State*, 291 Ga. 273, 731 S.E.2d 51 (2012).

15-12-139. Oath in criminal case.

JUDICIAL DECISIONS

Lack of record that oath administered.

Trial court properly concluded that the O.C.G.A. § 5-6-41(f) hearing was held and that the O.C.G.A. § 15-12-139 oath was properly administered when: (1) the defendant did not move to correct the record; (2) unless otherwise shown, the trial court was presumed to have followed the law; (3) although the defendant initially made that objection at the hearing

on the motion for new trial, the defendant subsequently acquiesced in the trial court's hearing of the issue at that time, and was granted the opportunity for a second hearing, at which the defendant presented an additional witness; and (4) the trial court credited the prosecutor's distinct memory that the trial court did, in fact, swear the jury. *Hill v. State*, 291 Ga. 160, 728 S.E.2d 225 (2012).

15-12-140. Oath of bailiffs.

The following oath shall be administered to all bailiffs on duty in any court in this state conducting a jury trial:

“You shall take all juries committed to your charge to the jury room or some other private and convenient place designated by the court and you shall not allow the jurors to receive any books, papers, nourishment, or hydration other than water, or to use any electronic communication device except as directed and approved by the court. You shall make no communication with the jurors nor permit anyone to communicate with the jurors except as specifically authorized by the court. You shall discharge all other duties which may devolve upon you as bailiff to the best of your skill and power. So help you God.”

(Laws 1831, Cobb's 1851 Digest, pp. 553, 554; Code 1863, § 5106; Code 1868, § 3857; Code 1873, § 3929; Code 1882, § 3929; Ga. L. 1887, p. 33, § 1; Civil Code 1895, § 4449; Penal Code 1895, § 878; Civil Code 1910, § 4990; Penal Code 1910, § 883; Code 1933, §§ 24-3201, 59-717; Ga. L. 2013, p. 775, § 1/HB 161.)

The 2013 amendment, effective July 1, 2013, rewrote this Code section.

PART 2

JURIES IN FELONY CASES

15-12-163. Challenges for cause; hearing of evidence; when objection may be made.

JUDICIAL DECISIONS

ANALYSIS

GENERAL CONSIDERATION

GROUNDS FOR CHALLENGE

3. INVOLVEMENT IN PROSECUTION

General Consideration

Trial court not required to question juror. — Since the trial court was not required to make further inquiry of a juror who disclosed that the juror held a preconceived notion concerning a witness that was not beneficial to the defense after defense counsel “rested his case” for excusal for cause, the trial court did not err when the court did not independently question the juror. *Poole v. State*, 291 Ga. 848, 734 S.E.2d 1 (2012).

Grounds for Challenge**3. Involvement in Prosecution**

Failure to make adequate inquiry of juror whose child had been prose-

cuted. — Trial court abused the court’s discretion by excusing for cause a juror whose child had been prosecuted by one of the assistant district attorneys who was prosecuting the defendant’s case and had been represented by the attorney who was representing a co-defendant because no adequate inquiry was made by the trial court as to whether an actual bias existed to justify excusing the juror for cause. *Simon v. State*, 320 Ga. App. 15, 739 S.E.2d 34 (2013).

15-12-164. Questions on voir dire; setting aside juror for cause.

JUDICIAL DECISIONS

ANALYSIS

GENERAL CONSIDERATION

General Consideration

Failure to make adequate inquiry of juror whose child had been prosecuted. — Trial court abused the court’s discretion by excusing for cause a juror whose child had been prosecuted by one of the assistant district attorneys who was

prosecuting the defendant’s case and had been represented by the attorney who was representing a co-defendant because no adequate inquiry was made by the trial court as to whether an actual bias existed to justify excusing the juror for cause. *Simon v. State*, 320 Ga. App. 15, 739 S.E.2d 34 (2013).

15-12-172. Replacement of incapacitated jurors; effect of replacement.

JUDICIAL DECISIONS

Trial court's replacement of ill juror with alternate, etc.

Trial court did not abuse the court's discretion by dismissing a juror and replacing the juror with an alternate after "significant deliberations" had occurred because the trial court conducted an independent investigation into the juror's illness, discovering that the juror was in the hospital and had the flu, and developed some factual support for the court's decision to remove the juror for legally relevant reasons. *Bryant v. State*, No. A12A2394, 2013 Ga. App. LEXIS 227 (Mar. 19, 2013).

Replacement of juror held proper.

Trial court was within the court's discretion to excuse a juror based on the totality of the circumstances because the trial court believed that the juror's ac-

quaintance with a witness and with the school where the defendant, various witnesses, and the juror's son had attended classes, made the juror very uncomfortable and would affect the juror's ability to deliberate. *Pate v. State*, 315 Ga. App. 205, 726 S.E.2d 691 (2012), cert. denied, No. S12C1308, 2012 Ga. LEXIS 1027 (Ga. 2012).

Trial court's decision to proceed with 11 jurors and an alternate after it was discovered that only 11 jurors and the alternate had been in the jury box during the oath and instructions, instead of the 12 jurors that were selected, was not improper; replacing the missing juror had no more effect of denying the defendant a qualified jury than if the juror had become ill or died. *Crowley v. State*, 315 Ga. App. 755, 728 S.E.2d 282 (2012).

CHAPTER 16

SHERIFFS

Article 1		Sec.
General Provisions		15-16-26.
Sec.		Investigation of charges against sheriff; suspension; additional investigations; assumption of sheriff's duties; indictment for felony.
15-16-1.	General qualification requirements for sheriff; exemptions.	

ARTICLE 1

GENERAL PROVISIONS

15-16-1. General qualification requirements for sheriff; exemptions.

(a) **Intent.** The General Assembly declares it to be in the best interests of the citizens of this state that qualifications and standards for the office of sheriff be determined and set so as to improve both the capabilities and training of those persons who hold the office of sheriff. With the increase of crime continuing as a major social problem in this

state and with the understanding that the sheriff is the basic law enforcement officer of the several counties of this state, it is declared to be the intent of the General Assembly that proper qualifications and standards be required of the person holding the office of sheriff so as to increase the effectiveness and capabilities of the several sheriffs of this state as law enforcement officers to combat crime.

(b) **General requirements.** Except as otherwise provided in this Code section, sheriffs are elected, qualified, commissioned, hold their offices for the same term, and are subject to the same disabilities as the clerks of the superior courts.

(c) **Qualifications.**

(1) No person shall be eligible to hold the office of sheriff unless such person:

(A) At the time of qualifying as a candidate for the office of sheriff is a citizen of the United States;

(B) Has been a resident of the county in which he or she seeks the office of sheriff for at least two years immediately preceding the date of qualifying for election to the office;

(C) At the time of qualifying as a candidate for the office of sheriff is a registered voter;

(D) At the time of qualifying as a candidate for the office of sheriff has attained the age of at least 25 years;

(E) At the time of qualifying as a candidate for the office of sheriff has obtained a high school diploma or its recognized equivalent in educational training as established by the Georgia Peace Officer Standards and Training Council;

(F) Has not been convicted of a felony offense or any offense involving moral turpitude contrary to the laws of this state, any other state, or the United States; provided, however, that a plea of nolo contendere to a felony offense or any offense involving moral turpitude contrary to the laws of this state shall have the same effect as a plea of guilty, thereby disqualifying such a person from holding the office of sheriff;

(G) Is fingerprinted and a search made of local, state, and national fingerprint files to disclose any criminal record, which fingerprints are to be taken under the direction of the judge of the probate court of the county in which such person is qualifying and must be taken on or before, but no later than, the close of business on the third business day following the close of such qualification period. If the search of such fingerprint files results in the discovery of any criminal record that reveals that the person has been

convicted, or the record shows no disposition of the record, of a felony offense or any offense involving moral turpitude contrary to the laws of this state, any other state, or the United States, the probate judge shall notify the election superintendent of such record immediately;

(H) At the time of qualifying as a candidate for the office of sheriff, files with the officer before whom such person is qualifying a complete written history of his or her places of residence for a period of six years immediately preceding his or her qualification date, giving the house number or RFD number, street, city, county, and state;

(I) At the time of qualifying as a candidate for the office of sheriff, files with the officer before whom such person is qualifying a complete written history of his or her places of employment for a period of six years immediately preceding his or her qualification date, giving the period of time employed and the name and address of his or her employer; and

(J) Is a registered peace officer as provided in Code Section 35-8-10 or is a certified peace officer as defined in Chapter 8 of Title 35. Any person who is not a registered or certified peace officer at the time such person assumes the office of sheriff shall be required to complete satisfactorily the requirements for certification as a peace officer as provided in Chapter 8 of Title 35 within six months after such person takes office; provided, however, that an extension of the time to complete such requirements may be granted by the Georgia Peace Officer Standards and Training Council upon the presentation of evidence by a sheriff that he or she was unable to complete the basic training course and certification requirements due to illness, injury, military service, or other reasons deemed sufficient by such council. The Georgia Peace Officer Standards and Training Council shall make every effort to ensure that space is available for newly elected sheriffs who are not certified or registered peace officers to attend the course as soon as possible after such persons take office. Such council shall notify the appropriate judge of the probate court whenever a newly elected sheriff who is not certified fails to become certified as a peace officer pursuant to the requirements of this subparagraph.

(2) Each person offering his or her candidacy for the office of sheriff shall at the time such person qualifies, swear or affirm before the officer before whom such person has qualified to seek the office of sheriff that he or she meets all of the qualifications required by this subsection, except as otherwise provided in subparagraph (J) of paragraph (1) of this subsection, and that he or she has complied or will comply with the requirements of subparagraph (G) of paragraph

(1) of this subsection no later than the close of business on the third business day following the close of such qualification period.

(3) Each person offering his or her candidacy for the office of sheriff shall file an affidavit with the election superintendent of the county by the close of business on the third business day following the close of the qualification period stating:

(A) That such person is a high school graduate or has obtained the recognized equivalent in education training as established by the Georgia Peace Officer Standards and Training Council; and

(B) When and from what school such person graduated from high school or obtained such recognized equivalent in education training.

In addition, such person shall also file a certified copy of his or her birth certificate with the election superintendent of the county.

(4) Each person offering to run for the office of sheriff and who is otherwise qualified shall be allowed, six months prior to qualifying and at his or her own expense, to attend the basic mandate course for peace officers. The Georgia Peace Officer Standards and Training Council shall work to ensure that space is available for such individuals to attend the course.

(d) **Exemption.** The requirements of subparagraphs (c)(1)(D), (c)(1)(E), (c)(1)(F), (c)(1)(H), (c)(1)(I), and (c)(1)(J) of this Code section shall be deemed to have been met by any person who is currently serving as a duly qualified and elected sheriff of one of the several counties of this state. (Laws 1799, Cobb's 1851 Digest, p. 198; Code 1863, § 320; Code 1868, § 381; Code 1873, § 345; Code 1882, § 345; Civil Code 1895, § 4368; Civil Code 1910, § 4902; Code 1933, § 24-2801; Ga. L. 1977, p. 1171, § 1; Ga. L. 1978, p. 244, § 1; Ga. L. 1981, p. 1334, §§ 1, 2; Ga. L. 1982, p. 3, § 15; Ga. L. 1984, p. 579, § 1; Ga. L. 1984, p. 1369, § 1; Ga. L. 1986, p. 606, § 1; Ga. L. 1989, p. 1091, § 3; Ga. L. 1990, p. 8, § 15; Ga. L. 1992, p. 2112, § 1; Ga. L. 1993, p. 724, §§ 1, 2; Ga. L. 1994, p. 521, § 1; Ga. L. 1997, p. 952, § 1; Ga. L. 1998, p. 224, § 1; Ga. L. 2013, p. 648, § 1/HB 139.)

The 2013 amendment, effective July 1, 2013, in subparagraph (c)(1)(G), substituted "of the county in which such person is qualifying and must be taken on or before, but no later than, the close of business on the third business day following the close of such qualification period" for "and must be taken on or before, but no later than, the close of qualification for election to the office of sheriff" and added the second sentence; near the beginning of

subparagraph (c)(1)(H), substituted " , files with the officer before whom such person is qualifying" for "gives"; near the beginning of subparagraph (c)(1)(I), substituted " , files with the officer before whom such person is qualifying" for "gives"; near the beginning of paragraph (c)(2), deleted " , within 60 days prior to or" following "sheriff shall" and deleted subparagraph (c)(2)(A), which read: "File with the officer before whom such person has qualified to

seek the office of sheriff a certified copy of his or her birth certificate and a certified copy of his or her high school diploma or certified proof of its recognized equivalent in education training as established by the Georgia Peace Officer Standards and Training Council; and"; deleted the subparagraph (c)(2)(B) designation, inserted

"or will comply" near the end, and substituted "the close of business on the third business day following the close of such qualification period" for "the close of qualification for election to the office of sheriff"; added paragraph (c)(3); and redesignated former paragraph (c)(3) as paragraph (c)(4).

15-16-5. Required bond.

JUDICIAL DECISIONS

ANALYSIS

GENERAL CONSIDERATION

General Consideration

Construction of statute. — Dismissal of action was affirmed because the bond obtained by the sheriff exceeded the requirement imposed by O.C.G.A. § 15-16-5 by adding another condition, that the

sheriff "faithfully perform the duties of his office." That additional condition was invalid and unenforceable under the "read in/read out" rule for construing statutory bonds. *Lord v. Lowe*, 318 Ga. App. 222, No. A12A1652, 2012 Ga. App. LEXIS 884 (2012).

15-16-10. Duties; penalties; electronic storage.

Law reviews. — For article on the 2012 amendment of this Code section, see 29 Ga. St. U.L. Rev. 139 (2012).

15-16-21. Fees for sheriff's services; disposition of fees.

Cross references. — Costs for transfers between magistrate courts, Uniform

Rules for the Magistrate Courts, Rule 36.3.

15-16-26. Investigation of charges against sheriff; suspension; additional investigations; assumption of sheriff's duties; indictment for felony.

(a) Whenever the Governor determines that an investigation of a sheriff of this state should be made as a result of criminal charges, alleged misconduct in office, or alleged incapacity of the sheriff to perform the functions of his office, he shall appoint two sheriffs who are members of the Georgia Sheriffs' Association who, along with the Attorney General, shall constitute a committee to conduct an investigation. Such sheriffs may be from any two counties in the state other than the county of the sheriff under investigation. The members of any such committee shall receive no compensation for their services but shall be reimbursed for any expenses incurred in connection with an investigation. The funds necessary to conduct an investigation shall

come from the funds appropriated to the executive branch of state government.

(b) Any member of the committee shall be authorized to administer oaths to any witness before the committee. The committee shall make a report of its investigation to the Governor within 30 days from the date of the appointment of both sheriff members by the Governor.

(c) If the committee recommends the suspension of the sheriff, the Governor shall be authorized to suspend the sheriff for a period of up to 60 days. In any case where a sheriff has been suspended for 60 days, the Governor may extend the period of suspension for an additional 30 days. Upon such recommendation, the Governor shall also be authorized to request the district attorney of the county of the sheriff's residence to bring a removal petition against the sheriff pursuant to subsection (b) of Code Section 15-16-10 based upon the evidence reported by the committee. In the event that the Governor determines that further investigation should be made, he or she may then order additional investigation by the committee, by the Georgia Bureau of Investigation, by other law enforcement agencies of this state, or by any special committee appointed by the Governor for such purpose.

(d) Except as provided in subsection (e) of this Code section, the chief judge of the superior court of the county of the sheriff's residence shall appoint a person who meets the qualifications for sheriffs pursuant to Code Section 15-16-1 to assume the duties and responsibilities of the office of sheriff during any period of suspension.

(e) Upon indictment for a felony, the provisions of Code Section 45-5-6 shall apply.

(f) The remedy provided by this Code section is intended to be cumulative of other remedies available on the subject and is not intended to repeal such remedies. (Ga. L. 1968, p. 1248, §§ 1-4; Ga. L. 1982, p. 425, § 1; Ga. L. 1984, p. 1279, § 2; Ga. L. 2012, p. 173, § 2-8/HB 665; Ga. L. 2013, p. 141, § 15/HB 79.)

The 2013 amendment, effective April 24, 2013, part of an Act to revise, modernize, and correct the Code, deleted "and

Code Section 15-16-26" following "Code Section 15-16-10" in the third sentence of subsection (c).

CHAPTER 18

PROSECUTING ATTORNEYS

Article 1		Sec.	
General Provisions			solicitors-general and employees.
Sec.		15-18-70.1.	Acting solicitor-general in the event of death or resignation.
15-18-6.1.	(Effective January 1, 2014) Responsibilities of district attorney.		
Article 3		Article 5	
Solicitors-General of State Courts		Prosecuting Attorneys of Municipal Courts	
15-18-63.	Part-time and full-time	15-18-92.	Criteria for appointment; consent.

Cross references. — Role of prosecuting attorney in delinquency proceedings, § 15-11-473.

ARTICLE 1
GENERAL PROVISIONS

15-18-6.1. (Effective January 1, 2014) Responsibilities of district attorney.

(a) The district attorney shall be responsible for representing the state in any appeal from the juvenile court. Except as provided in subsection (c) of this Code section, the district attorney shall be responsible for representing the state in the prosecution of delinquency cases in the juvenile court. The district attorney may designate assistant district attorneys, investigators, victim and witness assistance personnel, and other employees to assist in juvenile court.

(b) In counties with a solicitor-general for the state court, the solicitor-general may, with the approval of the district attorney, represent the state in prosecution of juvenile traffic offenses and in any delinquency case arising out of the operation of a motor vehicle or a watercraft.

(c) If as a result of workload, lack of staff, or other cause the district attorney determines that his or her office cannot provide representation for the state in a juvenile court of a county, other than for an appeal, the district attorney shall notify in writing the chief judge of superior court, the judge or judges of the juvenile court, and the chairperson of the county governing authority of such county of such determination. A copy of such notice shall be provided to the Prosecuting Attorneys'

Council of the State of Georgia. If the district attorney determines that his or her office may resume representation in juvenile court, he or she shall notify the chief judge of the superior court, the judge or judges of the juvenile court, and the chairperson of the county governing authority in writing.

(d) Upon receipt of the notice set forth in subsection (c) of this Code section, the governing authority of such county may appoint one or more attorneys to represent the state in prosecuting delinquency cases in juvenile court. Such attorney shall be compensated in an amount to be fixed by the governing authority of such county. The governing authority shall determine and state in writing whether an attorney shall serve on a full-time or part-time basis. An attorney appointed to serve on a full-time basis shall not engage in the private practice of law. An attorney appointed to serve on a part-time basis may engage in the private practice of law, but shall not represent a child charged with committing a delinquent act in the juvenile court of the county in which he or she serves as part-time prosecutor nor may he or she appear in any matter in which he or she has exercised jurisdiction.

(e) An attorney appointed pursuant to subsection (d) of this Code section shall have all of the powers, duties, and authority of the district attorney with regard to delinquency cases and shall be subject to all laws and rules governing the conduct of prosecuting attorneys in this state. If such attorney is disqualified from interest or relationship to engage in prosecution, the provisions of Code Section 15-18-5 shall apply. (Code 1981, § 15-18-6.1, enacted by Ga. L. 2013, p. 294, § 4-4/HB 242.)

Effective date. — This Code section becomes effective January 1, 2014. See editor's note for applicability.

Editor's notes. — Ga. L. 2013, p. 294, § 5-1/HB 242, not codified by the General Assembly, provides that: "This Act shall become effective on January 1, 2014, and shall apply to all offenses which occur and juvenile proceedings commenced on and after such date. Any offense occurring before January 1, 2014, shall be governed

by the statute in effect at the time of such offense and shall be considered a prior adjudication for the purpose of imposing a disposition that provides for a different penalty for subsequent adjudications, of whatever class, pursuant to this Act. The enactment of this Act shall not affect any prosecutions for acts occurring before January 1, 2014, and shall not act as an abatement of any such prosecutions."

15-18-22. Use of third-year law students and law school staff instructors as legal assistants in criminal proceedings.

Cross references. — Third-year law students, Ga. Sup. Ct., Rules 91 — 96.

ARTICLE 3

SOLICITORS-GENERAL OF STATE COURTS

15-18-63. Part-time and full-time solicitors-general and employees.

(a) The General Assembly by local law shall determine whether the solicitor-general shall be a full-time or part-time solicitor-general.

(b) A full-time solicitor-general of the state court or any full-time employees of the solicitor-general shall not engage in the private practice of law.

(c) A part-time solicitor-general of the state court and any part-time assistant solicitor-general may engage in the private practice of law but shall not represent defendants in criminal matters in such solicitor-general’s state court or appear on behalf of any client, other than the state, in any matter that is within the duties of such solicitor-general. (Code 1981, § 15-18-63, enacted by Ga. L. 1996, p. 748, § 2; Ga. L. 2013, p. 674, § 1/SB 96.)

The 2013 amendment, effective July 1, 2013, in subsection (b), substituted “shall not engage” for “may not engage”; and, in subsection (c), substituted “law but shall not represent defendants in criminal matters” for “law, but may not practice” near the middle and substituted

“or appear on behalf of any client, other than the state, in any matter that is within the duties of such solicitor-general” for “or appear in any matter in which that solicitor-general has exercised jurisdiction” at the end.

15-18-67. Compensation of solicitors-general.

JUDICIAL DECISIONS

Compensation dispute. — Trial court correctly held that a county solicitor general was improperly compensated beginning in July 2007 but erred in calculating the back pay due to the solicitor-general as of January 1, 2009, based on an amended local law because the amended

local law irreconcilably conflicted with O.C.G.A. § 15-18-67(b), which prohibited the reduction of a solicitor-general’s compensation during the solicitor-general’s term of office. *Inagawa v. Fayette County*, 291 Ga. 715, 732 S.E.2d 421 (2012).

15-18-70.1. Acting solicitor-general in the event of death or resignation.

(a) Upon the death or resignation of a solicitor-general, the chief assistant solicitor-general or, if there is no chief assistant solicitor-general, the assistant solicitor-general senior in time of service shall perform the duties of the deceased or resigned solicitor-general until such official’s successor is appointed or elected and qualified. An

assistant solicitor-general performing the duties of a deceased or resigned solicitor-general shall be compensated as provided for acting solicitors-general in subsection (b) of Code Section 15-18-70.

(b) If there is no assistant solicitor-general available to perform the duties of the deceased or resigned solicitor-general as provided in subsection (a) of this Code section, the presiding judge may request the assistance of the district attorney of the judicial circuit in which such county is located or another solicitor-general of a state court to prosecute cases until a solicitor-general is appointed or elected and qualified as provided by subsection (b) of Code Section 15-18-60. Any such district attorney or solicitor-general who is acting pursuant to this subsection shall be reimbursed by the county governing authority for actual expenses incurred while assisting in the state court pursuant to this subsection. (Code 1981, § 15-18-70.1, enacted by Ga. L. 2012, p. 53, § 3/SB 352; Ga. L. 2013, p. 141, § 15/HB 79.)

The 2013 amendment, effective April 24, 2013, part of an Act to revise, modernize, and correct the Code, substituted “solicitors-general” for “solicitor-generals” in the last sentence of subsection (a).

ARTICLE 4

PRETRIAL INTERVENTION AND DIVERSION PROGRAM

15-18-80. Policy and procedure.

Law reviews. — For article on the 2012 amendment of this Code section, see 29 Ga. St. U.L. Rev. 290 (2012).

ARTICLE 5

PROSECUTING ATTORNEYS OF MUNICIPAL COURTS

15-18-92. Criteria for appointment; consent.

(a) Any person appointed as the prosecuting attorney of a municipal court shall be a member in good standing of the State Bar of Georgia and admitted to practice before the appellate courts of this state.

(b) Notwithstanding the provisions of subsection (a) of Code Section 15-18-21 or subsection (b) of Code Section 15-18-72, an assistant district attorney or assistant solicitor-general may be appointed as the prosecuting attorney of a municipal court with the prior written consent of the district attorney or solicitor-general who employs such assistant district attorney or assistant solicitor-general. Such consent may be withdrawn at any time by the employing district attorney or solicitor-general. Notice that consent for such appointment is being

withdrawn shall be done in writing to the governing authority of such municipality not less than 30 days prior to the day that such assistant district attorney or assistant solicitor-general shall cease to serve as the prosecuting attorney of a municipal court. (Code 1981, § 15-18-92, enacted by Ga. L. 2012, p. 53, § 4/SB 352; Ga. L. 2013, p. 141, § 15/HB 79.)

The 2013 amendment, effective April 24, 2013, part of an Act to revise, modernize, and correct the Code, substituted “subsection (b) of Code Section 15-18-72” for “subsection (b) of 15-18-72” in the first sentence of subsection (b).

CHAPTER 19

ATTORNEYS

ARTICLE 1

GENERAL PROVISIONS

15-19-4. Duties of attorneys.

Cross references. — Establishment of attorney-client privilege, § 24-5-501.

15-19-14. Liens for services rendered; priority; modes of enforcement; other rights.

Law reviews. — For annual survey on legal ethics, see 64 Mercer L. Rev. 189 (2012).

JUDICIAL DECISIONS

ANALYSIS

TIME WHEN LIEN ATTACHES
RECOVERY BY ATTORNEY
PRACTICE AND PROCEDURE

Time When Lien Attaches

Attorney’s fees. — Because the interest in a fee award held by appellee, a law firm’s former attorney, existed prior to the law firm’s later assignment of its interest to appellant assignee, and the attorney’s interest could not have been assigned by the firm as it belonged to the attorney personally, the attorney had an enforceable contractual interest in the attorney’s

percentage and the attorney was protected by O.C.G.A. § 15-19-14’s attorney lien; the attorney had left the firm before the class action was filed, and after the action was filed, the attorney associated the law firm in the class action, and it was not until thereafter that the firm assigned the firm’s interest in the fees to the assignee. R.D. Legal Funding Partners, LP v. Robinson, No. 11-12190, 2012 U.S. App.

LEXIS 8074 (11th Cir. Apr. 18, 2012) (Unpublished).

Recovery by Attorney

Attorneys employed as special counsel in bankruptcy cases. — Attorneys who represented an asphalt company in a lawsuit the company filed before the company was forced into bankruptcy did not have a charging lien under O.C.G.A. § 15-19-14(b) on the proceeds of a settlement the attorneys negotiated after the attorneys were appointed as special counsel for the company's bankruptcy estate because the attorneys represented the estate, not the company, and the attorneys were not entitled to receive 35 percent of the settlement proceeds because the Chapter 7 trustee had rejected the attorneys' proposal for a contingency fee contract, pursuant to 11 U.S.C. § 365. Because the court had not determined a method for paying the attorneys for work the attorneys performed as special counsel, the court held that the amount of fees would be determined under 11 U.S.C. § 330 and the award would be given administrative priority under 11 U.S.C. §§ 503 and 507. *Cardwell v. Bankruptcy Estate of Joel Spivey (In re Douglas Asphalt Co.)*, 483 B.R. 560 (Bankr. S.D. Ga. 2012).

Declaratory judgment not available. — Under the right-for-any-reason rule, the trial court did not err by dismissing a law firm's case against an insurer under the Declaratory Judgment Act, O.C.G.A. § 9-4-1, and O.C.G.A. § 15-19-14(b) to enforce the firm's attorney's lien in a case the firm filed on behalf of an owner against the insurer because declaratory judgment was not available; the issues the firm raised were the same as those raised in an owner's case against the insurer for failure to provide a defense, and the rights of the parties in the owner's case had already accrued. *McRae, Stegall, Peek, Harman, Smith & Manning, LLP v. Ga. Farm Bureau Mut. Ins. Co.*, 316 Ga. App. 526, 729 S.E.2d 649 (2012).

Practice and Procedure

Lien improperly held invalid. — As an attorney's lien under O.C.G.A. § 15-19-14 for services rendered to a decedent's child with respect to securing the child's share of the estate was valid and there was no dispute as to the amount due to the attorney, the child was not entitled to direct distribution of the child's share of the estate until the attorney's lien or claim for fees was fully satisfied. *In re Estate of Estes*, 317 Ga. App. 241, 731 S.E.2d 73 (2012).

ARTICLE 2

STATE BAR OF GEORGIA

15-19-30. Establishment of unified state bar authorized.

JUDICIAL DECISIONS

Proceedings before the State Bar are "official proceedings". — Anti-Strategic Lawsuits Against Public Participation (Anti-SLAPP) statute, O.C.G.A. § 9-11-11.1, applied to complaints against an attorney before the State Bar of Georgia because State Bar

proceedings were "official proceedings authorized by law" under O.C.G.A. § 9-11-11.1(c). However, a hearing was required before the defense could be allowed. *Jefferson v. Stripling*, 316 Ga. App. 197, 728 S.E.2d 826 (2012).

ARTICLE 3

REGULATION OF PRACTICE OF LAW

15-19-51. Unauthorized practice of law forbidden.

Cross references. — Third-year law students, Ga. Sup. Ct., Rules 91 — 96.

CHAPTER 21

PAYMENT AND DISPOSITION OF FINES AND FORFEITURES

Article 10

Georgia Driver’s Education Commission

Sec.
15-21-179. (Repealed effective June 30, 2016) Additional penalty for violation of traffic laws or ordinances.

Sec.
15-21-181. Report of funds received from additional penalties; annual reporting requirement; funds made available to Driver’s Education Commission.

ARTICLE 6

COUNTY DRUG ABUSE TREATMENT AND EDUCATION FUND

15-21-100. Imposition of additional penalty for certain offenses.

Law reviews. — For article on the 2012 amendment of this Code section, see 29 Ga. St. U.L. Rev. 290 (2012).

15-21-101. Collection of fines and authorized expenditures of funds from County Drug Abuse Treatment and Education Fund.

Law reviews. — For article on the 2012 amendment of this Code section, see 29 Ga. St. U.L. Rev. 290 (2012).

ARTICLE 10

GEORGIA DRIVER'S EDUCATION COMMISSION

15-21-179. (Repealed effective June 30, 2016) Additional penalty for violation of traffic laws or ordinances.

(a) In every case in which any court in this state shall impose a fine or bond payment, which shall be construed to include costs, for any violation of the traffic laws of this state or for violations of ordinances of political subdivisions which have adopted by reference the traffic laws of this state, there shall be imposed as an additional penalty a sum equal to 1.5 percent of the original fine.

(b) Such sums shall be in addition to any amount required to be paid into any pension, annuity, or retirement fund under Title 47 or any other law and in addition to any other amounts provided for in this article.

(c) This Code section shall be repealed in its entirety on June 30, 2016, unless extended by an Act of the General Assembly. (Code 1981, § 15-21-179, enacted by Ga. L. 2005, p. 1461, § 2/SB 226; Ga. L. 2008, p. 846, § 13/HB 1245; Ga. L. 2013, p. 741, § 1/SB 231.)

The 2013 amendment, effective May 6, 2013, substituted "1.5 percent" for "5 percent" in the last sentence of subsection (a) and substituted "June 30, 2016" for "June 30, 2013" in the middle of subsection (c).

15-21-181. Report of funds received from additional penalties; annual reporting requirement; funds made available to Driver's Education Commission.

(a) As soon as practicable after the end of each fiscal year, the Office of the State Treasurer shall report the amount of funds received pursuant to Code Section 15-21-179 to the Office of Planning and Budget and the commission. It is the intent of the General Assembly that, subject to appropriation, an amount equal to such proceeds received from such fines in any fiscal year shall be made available during the following fiscal year to the commission for the purposes set forth in Code Section 15-21-178.

(b) Not later than October 1 of each year, the commission shall provide a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives, as well as the committee chairpersons for the standing committees in the Senate and the House of Representatives that are assigned issues related to motor vehicles. The report shall include the amount of funds collected from the additional penalty imposed under this article for the previous three fiscal years, the amount of such funds appropriated to the commission

for each such corresponding year, and the manner and purposes for which such funds have been expended. (Code 1981, § 15-21-181, enacted by Ga. L. 2005, p. 1461, § 2/SB 226; Ga. L. 2010, p. 863, § 2/SB 296; Ga. L. 2013, p. 741, § 2/SB 231.)

The 2013 amendment, effective May 6, 2013, designated the existing provisions as subsection (a) and added subsection (b).

CHAPTER 23

COURT-CONNECTED ALTERNATIVE DISPUTE RESOLUTION

Sec. 15-23-7. (For effective date, see note.) Collection of additional legal costs in civil actions for purposes of providing court-connected or court-referred alternative dispute resolution programs.	Sec. 15-23-10. (For effective date, see note.) Determination of need as prerequisite to establishment of program.
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15-23-7. (For effective date, see note.) Collection of additional legal costs in civil actions for purposes of providing court-connected or court-referred alternative dispute resolution programs.

(a) For the purposes of providing court-connected or court-referred alternative dispute resolution programs, a sum not to exceed \$7.50, in addition to all other legal costs, may be charged and collected in each civil action or case filed in the superior, state, probate, and magistrate courts and other courts within the county that have the same powers and jurisdiction as state or magistrate courts.

(b) A case, within the meaning of this Code section, shall mean and be construed as any matter which is docketed upon the official dockets of the enumerated courts and to which a number is assigned, whether such matter is contested or not.

(c) The amount, if any, to be collected in each case shall be fixed in an amount not to exceed the applicable amount set out in subsection (a) of this Code section by the chief judge of the superior court or, if there is no chief judge, by the superior court judge with the longest service, who shall, after advising and notifying the chairperson of the county governing authority, order the clerk to collect said fees and remit them to the treasurer of the county fund for the administration of alternative dispute resolution programs. No such additional costs shall be charged and collected unless the chief judge of the superior court or such chief

judge's designee, or if there is no chief judge, the superior court judge with the longest service or such judge's designee first determines that a need exists for an alternative dispute resolution program in one or more of the courts within the county. The chief judge of the superior court or the designee of the chief judge or, if there is no chief judge, the superior court judge with the longest service or the designee of such judge may propose, as to a given court, the collection of an amount exceeding \$7.00, but in no event to exceed the applicable amount set out in subsection (a) of this Code section; provided, however, that approval of the board member representing the affected court is necessary before imposition upon litigants of that court of costs authorized by this chapter exceeding \$7.00.

(d) The clerk of each and every such court in such counties shall collect such fees and remit the same to the treasurer of the board of the county in which the case was brought, on the first day of each month. No change in the amount collected pursuant to this Code section may be made within a period of 12 months from the date of a previous change.

(e) (For effective date, see note.) Juvenile court supervision fees collected pursuant to Code Section 15-11-37 may be used for mediation services provided by court programs pursuant to this chapter. (Code 1981, § 15-23-7, enacted by Ga. L. 1993, p. 1529, § 1; Ga. L. 1997, p. 874, § 4; Ga. L. 1998, p. 128, § 15; Ga. L. 2000, p. 20, § 4; Ga. L. 2013, p. 294, § 4-5/HB 242.)

Delayed effective date. — Subsection (e), as set out above, becomes effective January 1, 2014. For version of subsection (e) in effect until January 1, 2014, see the 2013 amendment note.

The 2013 amendment, effective January 1, 2014, substituted "Code Section 15-11-37" for "Code Section 15-11-71" in subsection (e). See editor's note for applicability.

Editor's notes. — Ga. L. 2013, p. 294, § 5-1/HB 242, not codified by the General Assembly, provides that: "This Act shall become effective on January 1, 2014, and

shall apply to all offenses which occur and juvenile proceedings commenced on and after such date. Any offense occurring before January 1, 2014, shall be governed by the statute in effect at the time of such offense and shall be considered a prior adjudication for the purpose of imposing a disposition that provides for a different penalty for subsequent adjudications, of whatever class, pursuant to this Act. The enactment of this Act shall not affect any prosecutions for acts occurring before January 1, 2014, and shall not act as an abatement of any such prosecutions."

15-23-10. (For effective date, see note.) Determination of need as prerequisite to establishment of program.

No alternative dispute resolution program shall be established for any court unless the judge or a majority of the judges of such court determine that there is a need for such program in that court. The funding mechanism set forth in this chapter shall be available to any court, including the juvenile court, which, having determined that a court-annexed or court-referred alternative dispute resolution program

would make a positive contribution to the ends of justice in that court, has developed a program meeting the standards of the Supreme Court of Georgia Alternative Dispute Resolution Rules and appendices. Pursuant to the standards set forth in the Supreme Court of Georgia Alternative Dispute Resolution Rules and appendices, the funding mechanism set forth in this chapter shall be available to court programs in which cases are screened by the judge or by the program director under the supervision of the judge on a case-by-case basis to determine whether:

- (1) The case is appropriate for the process;
- (2) The parties are able to compensate the neutral if compensation is required; and
- (3) A need for emergency relief makes referral inappropriate until the request for relief is heard by the court. (Code 1981, § 15-23-10, enacted by Ga. L. 1993, p. 1529, § 1; Ga. L. 1997, p. 874, § 5; Ga. L. 2013, p. 294, § 4-6/HB 242.)

Delayed effective date. — This Code section, as set out above, becomes effective January 1, 2014. For version of this Code section in effect until January 1, 2014, see the 2013 amendment note.

The 2013 amendment, effective January 1, 2014, in the second sentence of the introductory language, inserted “, including the juvenile court,” near the beginning and substituted “Supreme Court of Georgia Alternative Dispute Resolution Rules and appendices” for “Georgia Supreme Court’s Uniform Rule for Alternative Dispute Resolution Programs” in the second and third sentences. See editor’s note for applicability.

Editor’s notes. — Ga. L. 2013, p. 294,

§ 5-1/HB 242, not codified by the General Assembly, provides that: “This Act shall become effective on January 1, 2014, and shall apply to all offenses which occur and juvenile proceedings commenced on and after such date. Any offense occurring before January 1, 2014, shall be governed by the statute in effect at the time of such offense and shall be considered a prior adjudication for the purpose of imposing a disposition that provides for a different penalty for subsequent adjudications, of whatever class, pursuant to this Act. The enactment of this Act shall not affect any prosecutions for acts occurring before January 1, 2014, and shall not act as an abatement of any such prosecutions.”



